

**H.R. 7 SECTION BY SECTION ANALYSIS**  
**THE AMERICAN ENERGY AND INFRASTRUCTURE JOBS ACT**

SEC. 1. SHORT TITLE.

This section provides the short title and table of contents.

SEC. 2. GENERAL DEFINITIONS.

This section provides the general definitions.

SEC. 3. EFFECTIVE DATE.

This section provides that Titles I through VII of this Act, including amendments made by those titles, shall take effect on October 1, 2012.

**TITLE I – FEDERAL-AID HIGHWAYS**

SEC. 1001. AMENDMENTS TO TITLE 23, UNITED STATES CODE.

This section states that amendments or repeals referenced in this Title are made to title 23, United States Code.

**SUBTITLE A – AUTHORIZATION OF PROGRAMS**

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

Subsection (a) authorizes funding levels for the following programs to be appropriated out of the Highway Trust Fund (other than the Alternative Transportation Account) for each of fiscal years 2013 through 2016:

- National Highway System Program
- Surface Transportation Program
- Highway Safety Improvement Program
- Tribal Transportation Program
- Federal Lands Transportation Programs
- Recreational Trails Program
- Appalachian Development Highway System Program

Subsection (b) authorizes the following programs to be funded out of the Alternative Transportation Account of the Highway Trust Fund for each of fiscal years 2013 through 2016:

- Congestion Mitigation and Air Quality Improvement Program

- Ferry Boat and Ferry Terminal Facilities Program
- Puerto Rico Highway Program
- Territorial Highway Program

Subsection (c) defines the term “small business concern” of Disadvantaged Business Enterprises pursuant to section 3 of the Small Business Act. The term excludes a socially and economically disadvantaged individual or individuals that have average annual gross receipts during the preceding 3 fiscal years in excess of \$22,410,000. Small business concerns will receive no less than 10 percent of the amounts made available for any program under title I, II, and III of this Act and 23 U.S.C. §403.

#### SEC. 1102. HIGHWAY OBLIGATION CEILING.

Subsection (a) sets the obligation limitation for all Federal-aid highway contract authority programs authorized to be appropriated out of the Highway Trust Fund (other than the Alternative Transportation Account). The obligations for these programs shall not exceed –

- \$37,366,000,000 for fiscal year 2013;
- \$37,621,000,000 for fiscal year 2014;
- \$37,676,000,000 for fiscal year 2015;
- \$38,000,000,000 for fiscal year 2016.

Subsection (b) lists the programs that do not apply to the exceptions under subsection (a).

Subsection (c) sets the guidelines the Secretary must follow when distributing obligation authority.

Subsection (d) directs the Secretary to redistribute unused obligation authority each fiscal year.

Subsection (e) requires the Secretary to distribute to the States any funds that are authorized to be appropriated for the fiscal year towards Federal-aid highway programs and what will not be allocated to the States due to any obligation limitation for the fiscal year. Funds distributed under paragraph (1) will use the same ratio as subsection (c)(4) and are available for any purpose described in 23 U.S.C. §133(b).

Subsection (f) requires obligation authority distributed for a fiscal year under subsection (c)(3) to remain available until used by the eligible entity and be in addition to the amount of any limitation imposed on obligations for Federal-aid highway contract authority programs for future fiscal years.

#### SEC. 1103. ALTERNATIVE TRANSPORTATION ACCOUNT OBLIGATION CEILING.

Subsection (a) directs that the total obligations from amounts made available from the Alternative Transportation Account of the Highway Trust Fund for the programs which sums are

authorized to be appropriated under sections 1101(b) and 7101 of this Act shall not exceed \$2,707,000,000 for each of fiscal years 2013 through 2016.

Subsection (b) amends 23 U.S.C. §118(a) to clarify that programs funded out of the Alternative Transportation Account are contract authority programs.

#### SEC. 1104. APPORTIONMENT.

This section amends 23 U.S.C. §104.

Subsection (a) authorizes \$400,000,000 towards administrative expenses of the Federal Highway Administration for each of fiscal years 2013 through 2016. This sum includes funds for the Appalachian Regional Commission to cover the administrative activities of the Appalachian Development Highway System.

Subsection (b) requires the Secretary to distribute the remainder of the sums authorized for expenditure on the National Highway System program, the congestion mitigation and air quality improvement program, the surface transportation program, and the highway safety improvement program to eligible States through specified formulas.

Subsection (c) requires the Secretary to calculate the deck area for highway bridges on the National Highway System that are eligible for replacement and rehabilitation.

Subsection (d) directs the Secretary to certify to each of the State transportation departments the sums apportioned them by October 1 of each fiscal year.

Subsection (e) requires annual audits of financial statements of the Highway Trust Fund to be conducted by the Office of Inspector General of the Department of Transportation.

Subsection (f) directs the Secretary to set-aside 1.15 percent of the funds authorized to be appropriated for the National Highway System program and surface transportation program each fiscal year to carry out the metropolitan planning requirements of 49 U.S.C. §5203. The funds set aside under this subsection are apportioned to the States in the ratio which the population in the urbanized areas in each State bears to the total population in such urbanized areas in all the States. No State shall receive less than  $\frac{1}{2}$  of 1 percent of the amount apportioned. States must make the set aside amounts under this subsection available to the metropolitan planning organizations of their State in order to carry out 49 U.S.C. §5203. States that receive the minimum apportionment may use their funds to finance transportation planning outside of urbanized areas, subject to the approval of the Secretary. Any unused funds for 49 U.S.C. §5203 may be used to fund activities for section 5204 of such title. The distribution of planning funds under paragraph (3) within any State must be in accordance with a formula developed by each State and approved by the Secretary.

Subsection (g) requires the Secretary to submit a report to Congress detailing for each state the amount obligated for Federal-aid highways and highway safety construction programs, and for other purposes.

Subsection (h) allows funds made available for transit projects or transportation planning under this title to be transferred to and administered by the Secretary in accordance with chapter 53 of title 49. Paragraph (3) allows the Secretary to transfer funds apportioned or allocated under this title to the State, to another State or the Federal Highway Administration. A State must have written consent from the appropriate metropolitan planning organization if the State is to transfer funds under the surface transportation program.

Subsection (i) directs the Secretary, before appropriating authorized sums, to deduct \$840,000 for administrative, research, technical assistance, and training expenses to carry out the recreational trails program under 23 U.S.C. §206, for each fiscal year.

#### SEC. 1105. FEDERAL-AID SYSTEMS.

This section amends 23 U.S.C. §103(b) to incorporate modifications to the National Highway System, inserting a mention of commerce and border crossings, and further modifies the components of the National Highway System. A new paragraph (6) is added that requires each State to implement a risk-based State asset management plan for managing all infrastructure assets in the right-of-way corridor with specific requirements for such plan. A State asset management plan shall include strategies leading to a program of projects that will make progress toward achievement of the national goals for infrastructure condition and performance of the National Highway System. If a State fails to implement such a plan consistent with this section, the Federal share payable on account of any project or activity is changed to 70 percent under 23 U.S.C. §119.

#### SEC. 1106. NATIONAL HIGHWAY SYSTEM PROGRAM.

This section amends 23 U.S.C. §119 to require the Secretary to establish the National Highway System program and define its purpose. Only facilities located on the National Highway System are eligible for program funding. Eligible projects must: be located on an eligible facility, support progress towards national performance goals, be consistent with requirements of 49 U.S.C. §5203 and §5204, and satisfy an acceptable project purpose. Project sponsors have the authority to give preference to mitigating environmental impacts through the use of a mitigation bank or another third-party mitigation arrangement.

The Federal share of the cost of a project payable from funds made available to carry out this section shall be determined under 23 U.S.C. §120(b).

#### SEC. 1107. SURFACE TRANSPORTATION PROGRAM.

Subsection (a) amends 23 U.S.C. §133(b) by striking paragraphs (1), (14) and (15). New paragraphs (1) through (4) establish the eligible projects under the surface transportation program.

Subsection (b) amends 23 U.S.C. §133(c) by prohibiting projects funded by this program to be undertaken on roads functionally classified as local or rural minor collectors unless the roads were on a Federal-aid highway system in 1991.

Subsection (c) repeals 23 U.S.C. §133(d)(2). 23 U.S.C. §133(d)(3) is amended by changing the percentage of funds that is required to be spent on urbanized areas with population over 200,000. Paragraph (E) requires a State to consult with the local rural planning organization, if any, before obligating funding for projects in a population area of 5,000 to 200,000.

Subsection (d) amends 23 U.S.C. §133(e)(3) to require the Secretary to make payments to a State for costs incurred by the State for the surface transportation program.

Subsection (e) amends 23 U.S.C. §133(f)(1) by inserting the correct fiscal years.

Subsection (f) allows up to 15 percent of the amounts required to be obligated by a State to be obligated on roads functionally classified as minor collectors. The Secretary has the authority to suspend this application if it is being used excessively by the State.

#### SEC. 1108. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

Subsection (a) amends 23 U.S.C. §149(b) by setting requirements for the obligation of funds. A project qualifies if the project is located in an area of the State that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act. A project also qualifies if it is determined the project will contribute to the attainment of a national ambient air quality standard, the maintenance of a national ambient air quality standard in a maintenance area, has been approved in a State implementation plan pursuant to the Clean Air Act, mitigates congestion, or is found to reduce travel time delay, vehicle miles traveled or fuel consumption.

A State may obligate funds for a project or program that will result in the construction of new capacity available to single occupant vehicles only if it will help mitigate congestion or improve air quality. Projects for PM-10 nonattainment areas and projects that establish or support the establishment of electric vehicle battery charging facilities also qualify.

Subsection (b) amends 23 U.S.C. §149 by striking subsection (f).

#### SEC. 1109. EQUITY BONUS PROGRAM.

This section amends 23 U.S.C. §105 to apportion among the States amounts sufficient to ensure that each state receive a minimum return on the dollars that state contributes to the Highway Trust Fund.

For each of fiscal years 2013 through 2016, the percentage referred to in subsection (a) for each State shall be a minimum of 94 percent of the quotient obtained.

For each fiscal year, the Secretary shall apportion among the States amounts sufficient to ensure that each State receives a combined total apportionment for the programs in subsection (a)(2) and the congestion mitigation and air quality improvement program that equals or exceeds the combined amount that the State was apportioned for fiscal year 2012 for the programs specified in 23 U.S.C. §105(a)(2). In determining a State's combined apportionment for fiscal year 2012, the Secretary shall not consider amounts apportioned to the State for such fiscal year under section 111(d)(1) and (3) of the Surface Transportation Extension Act of 2011, Part II (PL 112-30).

The manner by which the Secretary apportions the amounts made available through this program to programs in each State is provided. The Secretary shall apportion the amounts made available under this section that exceed \$2,639,000,000 so that the amount apportioned to each State for programs in this section is equal to the amount determined by multiplying the amount to be apportioned to such State under this section. No set-aside under 23 U.S.C. §104(f) applies to funds allocated under this section.

There are authorized to be appropriated out of the Highway Trust Fund, subject to paragraphs (2) and (3), \$3,900,000,000 for each of fiscal years 2013 through 2016.

If the amounts in paragraph (1) are below the minimum percentage of total apportionments required for each fiscal year, the amount will be increased by the amount of the shortfall to meet the minimum requirement. If the amounts in paragraph (1) are above the minimum percentage of total apportionments required for each fiscal year, the amount will be decreased by the amount of the surplus.

#### SEC. 1110. PROJECT APPROVAL AND OVERSIGHT.

Subsection (a) amends 23 U.S.C. §106(c)(1) to allow States to assume the responsibility of the Secretary for design, plans, specifications, estimates, contract awards, and inspections for projects on the National Highway System.

Subsection (b) amends 23 U.S.C. §106(e) by requiring a State to provide a value engineering analysis for projects on the National Highway system with a total estimated cost of \$50,000,000 and bridge projects on the National Highway System with a total estimated cost of \$40,000,000. The requirements of subsection (e) do not apply to projects delivered under a design-build method.

Subsection (c) amends 23 U.S.C. §106(h)(3) to require the financial plan to assess the appropriateness of a public-private partnership to deliver a project.

Subsection (d) amends 23 U.S.C. §106 by adding subsection (j). This new subsection requires the Secretary to encourage the use of advanced modeling technologies during environmental, planning financial management, design, simulation, and construction processes for projects that receive Federal funding.

## SEC. 1111. EMERGENCY RELIEF.

Subsection (a) amends 23 U.S.C. §125(d) to allow the Secretary to expend funds from the emergency fund for repair or reconstruction of Federal-aid highways. The maximum project cost under this section cannot exceed the cost of repair or construction of a comparable facility. Debris removal is an eligible expense under certain circumstances. The U.S. Territories may not receive more than \$20,000,000 in a single fiscal year. Actual and necessary costs of maintenance and operation of ferryboats and additional transit services providing temporary substitute highway traffic service may be expended from the emergency fund. The Governor or President must declare an emergency in order to receive assistance under this section and the State must provide a list of projects and costs to the Secretary no later than two years after an emergency declaration.

Subsection (b) amends subsection (e) to update emergency relief to include the repair or reconstruction of tribal roads, Federal lands highways, and other federally owned roads that are open to public travel, even if the roads are not on Federal-aid highways. “Open to public travel” is defined.

Subsection (c) requires a rulemaking to update regulations governing the emergency relief program from the Secretary.

Subsection (d) requires the Secretary to take steps to improve the emergency relief program implementation.

## SEC. 1112. UNIFORM TRANSFERABILITY OF FEDERAL-AID HIGHWAY FUNDS.

This section amends 23 U.S.C. §126 to allow a State to transfer up to 25 percent of the State’s apportionments under the National Highway System program, the surface transportation program, and the highway safety improvement program for a fiscal year to any other apportionment of the State under any of those programs for that fiscal year. No funds may be transferred under this section that are subject to 23 U.S.C. §104(f) or 23 U.S.C. §133(d)(3).

## SEC. 1113. FERRY BOATS AND FERRY TERMINAL FACILITIES.

This section amends 23 U.S.C. §147 by striking subsections (c), (d), and (e) and inserting a new subsection (c). Subsection (c) establishes the formula to determine what each eligible State shall receive to carry out this program for each fiscal year.

## SEC. 1114. NATIONAL HIGHWAY BRIDGE AND TUNNEL INVENTORY AND INSPECTION PROGRAM.

Subsection (a) requires the Secretary to inventory all bridges and tunnels and identify those that are structurally deficient or functionally obsolete. A risk-based priority must then be established for the structurally deficient or functionally obsolete bridges and tunnels taking multiple safety and public use factors into consideration. The cost for replacing the structurally deficient or functionally obsolete structure must be determined.

Subsection (b) requires the Secretary to establish and maintain inspection standards for the proper safety inspection and evaluation of all highway bridges and tunnels in the inventory. The Secretary must annually review State compliance standards, and in instances of noncompliance, allow the State to develop a corrective action plan. If the issue goes unresolved, a penalty shall be handed down to the State.

Subsection (c) directs the Secretary to establish a program designed to train personnel to carry out highway bridge and tunnel inspections.

Subsection (d) allows the Secretary to use funds from 23 U.S.C. §104(a) and 23 U.S.C. §503; a State to use from funds from 23 U.S.C. §104(b)(1), §104(b)(3), and §104(b)(5); an Indian tribe to use funds from 23 U.S.C. §502; and a Federal agency to use funds from 23 U.S.C. §503 to carry out this section.

#### SEC. 1115. MINIMUM INVESTMENT IN HIGHWAY BRIDGES.

Subsection (a) requires States with a total highway bridge deck area on the National Highway System that is more than 10 percent structurally deficient to spend 10 percent of their allocation under 23 U.S.C. §104(b)(1) and §104(b)(3) on eligible projects on highway bridges. An amount equal to 110 percent of the amount that the State was required to expend for fiscal year 2009 on projects under 23 U.S.C. §144(f)(2) shall be available to the States only for eligible projects not on Federal-aid highways if the Secretary determines for the fiscal year that more than 15 percent of the total deck area of highway bridges not on Federal-aid highways in the State is located on highway bridges not on Federal-aid highway that have been classified as structurally deficient. States that have more than 2,000 structurally deficient highway bridges not on Federal-aid highways are also eligible.

Subsection (b) amends 23 U.S.C. §217(e) regarding safety accommodations when rehabilitating and replacing a bridge with bicycle lanes.

#### SEC. 1116. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

This section amends 23 U.S.C. §164(a) to allow states to qualify for this section if they have a state law to suspend all repeat offender intoxicated drivers of their driving privileges for not less than 1 year or suspend driving privileges for 1 year with limited driving privileges permitted if an ignition interlock device is installed on the motor vehicle owned or operated by the individual.

#### SEC. 1117. PUERTO RICO HIGHWAY PROGRAM.

23 U.S.C. §165 is amended by striking subsections (a) and (b) and inserting two new subsections. The Secretary is required to allocate funds made available for the fiscal year to carry out a highway program in the Commonwealth of Puerto Rico.



## SEC. 1118. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

This section requires the Secretary to apportion funds to the Appalachian development highway system program. Funds for this program are made available for obligation and administration. The Federal share of the cost of any project under this section must be in accordance with 40 U.S.C. §14501, to construct highways and access roads. Funds will remain available until expended. This section also allows States to use toll credits for the non federal share for projects on the Appalachian development highway system.

## SEC. 1119. REFERENCES TO MASS TRANSIT ACCOUNT.

Any reference to the Mass Transit Account in 23 U.S.C. or 49 U.S.C. shall refer to the Alternative Transportation Account.

## **SUBTITLE B – INNOVATIVE FINANCING**

### SEC. 1201. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.

Subsection (a) modifies the definitions for this section.

Subsection (b) makes the following changes to 23 U.S.C. §602:

“Subsection (a) of section 602 allows a State, local government, agency of a State or local government, public authority, private party to a public-private partnership, or any other legal entity to submit an application for financial assistance. Applicants may request assistance to be provided under a master credit agreement.

“Subsection (b) sets the criteria a project must meet in order to receive financial assistance. The project must be able to demonstrate and satisfy the following: planning and programmatic requirements, creditworthiness, dedicated revenue sources, regional significance, public sponsorship of private entities, and project readiness, among other factors.

“Subsection (c) requires each applicant to provide a preliminary opinion letter from a rating agency showing the potential to achieve an investment-grade rating.

“Subsection (d) establishes an approval process for the Secretary for applications and project funding.

“Subsection (e) establishes procedures for approval or disapproval of applications based on whether the projects meet the criteria specified in subsection (b)(2).

“Subsection (f) provides that approved applications qualify the project for execution of a term sheet establishing a conditional commitment of credit assistance.

“Subsection (g) sets the Federal requirements the project must comply with in order to receive Federal funding.

“Subsection (h) allows any approved credit instrument to finance 100 percent of the cost of the development phase activities if the total amount of the credit instrument does not exceed the maximum amount prescribed in this chapter.

Subsection (c) of Section 1201 amends 23 U.S.C. §603. Section 603(a)(1) is amended by adding a reference to master credit agreements. Secured loans may not exceed 49 percent of the anticipated eligible project costs. The paragraph relating to how a secured loan shall be payable is modified. The paragraph relating to nonsubordination in the event of bankruptcy, insolvency or liquidation is modified.

Subsection (d) of Section 1201 amends 23 U.S.C. §604 to conform to sections amended by this Act. Secured loans may not exceed 49 percent of the anticipated eligible project costs. The paragraph relating to how a secured loan shall be payable is modified. The paragraph relating to nonsubordination in the event of bankruptcy, insolvency or liquidation is modified. The percentage referred to in subsection (b)(10) is amended to 49 percent.

Subsection (e) of Section 1201 amends 23 U.S.C. §605 by adding a new subsection (e) to require the Secretary to implement procedures and measures to expedite the approval process.

Subsection (f) of Section 1201 amends 23 U.S.C. §608(a)(1). Subsection (a)(1) authorizes \$1,000,000,000 for each of fiscal years 2013 through 2016 to be appropriated out of the Highway Trust Fund to carry out this chapter. \$3,250,000 is appropriated for each of fiscal years 2013 through 2016 for administrative costs to carry out this chapter. The amount of budget authority administered to a master credit agreement is limited to 15 percent. A new subsection (c) is added to require the Secretary to publish a notice in the Federal Register and notice to applicants. Applicants are allowed to pay the subsidy amount other than budget authority in a fiscal year. A new subsection (d) is added to require the Secretary to distribute any unallocated funds at the end of a fiscal year. The remaining budget authority must be distributed to the States via formula.

## SEC. 1202. STATE INFRASTRUCTURE BANK PROGRAM.

This section amends 23 U.S.C. §610(d) to increase the amount a State can deposit into the highway account of their State infrastructure bank from 10 percent of the funds apportioned to the State to 15 percent. State infrastructure banks may not exceed 100 percent of the funds capitalized under 23 U.S.C. §611 for each of fiscal years 2013 through 2016.

## SEC. 1203. STATE INFRASTRUCTURE BANK CAPITALIZATION.

This section amends chapter 6 of 23 U.S.C. by adding a new section, section 611, to require the Secretary to apportion the funds to carry out this section on October 1 of each fiscal year. States must make capitalization grants to their State’s infrastructure bank with their apportioned funding. Beginning in FY 2015, the Secretary shall reapportion the remaining funds among States that do not obligate the funds to the other States that used the funds to capitalize their State’s infrastructure bank.

A recalculation under 23 U.S.C. §105 is precluded for funds reapportioned under subsection (c). All the requirements in 23 U.S.C. §610(h) apply to any funds apportioned under this section. \$750,000,000 is authorized to be appropriated out of the Highway Trust Fund for each of fiscal years 2013 through 2016. These funds are available for obligation and administration in the same manner as if the funds were apportioned under chapter 1.

#### SEC. 1204. TOLLING.

Subsection (a) amends 23 U.S.C. §129(a) to permit Federal participation in toll projects in the same manner as construction of toll-free highways. Conditions of facility ownership are set. Limitations on how toll revenues can be used are set. Public authorities with jurisdiction over a toll facility must conduct an annual audit of toll facility records to verify adequate maintenance and compliance. If found noncompliant, the Secretary has the right to require the authority to discontinue collecting tolls until a compliance plan is agreed upon.

Public authorities with jurisdiction over a high occupancy vehicle facility may undertake reconstruction, restoration, or rehabilitation on the facility. They may levy tolls on vehicles, excluding high occupancy vehicles, using that facility if certain requirements are met. The authority has the right to set the toll rate and exempt or designate special tolls for certain classes of vehicles. The Federal share payable for a project is a percentage determined by the State but cannot exceed 80 percent.

States are given the ability to loan to a public or private entity constructing a toll facility, or non-toll facility, with a dedicated revenue source that equals or partly equals the Federal share for the project. States must pass a law to permit tolling, if there is no law already in place, before they are permitted to toll.

Subsection (b) requires all toll facilities on the Federal-Aid Highway System to implement technologies that provide for the interoperability of electronic toll collection programs within two years of enactment.

#### SEC. 1205. HOV FACILITIES.

This section amends 23 U.S.C. §166. Section 166(b)(5) is amended by extending the date for low emission and energy efficient vehicles use of HOV facilities. Section 166(c)(3) is amended to subject toll revenue to the requirements of section 129(a)(3). Section 166(d)(2) is amended to add a new paragraph to the end that requires the State to maintain operating performance with the minimum average operating speed performance standard.

#### SEC. 1206. PUBLIC-PRIVATE PARTNERSHIPS.

This section requires the Secretary to compile best practices on how the government can work with the private sector in the development, financing, construction, and operation of transportation facilities. Best practices must include policies and techniques to ensure that the interests of the traveling public are met and the government is protected in any agreement with

the private sector. The Secretary may provide technical assistance on public-private partnerships to States, upon request. The Secretary is required to develop standard public-private partnership model contracts for the most popular types of public-private partnerships for use by States and local governments.

## **SUBTITLE C – HIGHWAY SAFETY**

### **SEC.1301. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

This section amends 23 U.S.C. §148, the Highway Safety Improvement Program.

Subsection (a) provides definitions for terms used in this section.

Subsection (b) directs the Secretary to carry out a highway safety improvement program.

Subsection (c) requires States to have a highway safety improvement program in order to receive funds apportioned under this section. Each State must have a highway safety plan as part of their highway safety program that is developed in consultation with transportation stakeholders, sets highway safety goals, identifies highway safety projects and is consistent with performance measures established under title 49, U.S.C. Each highway safety plan must consider hazardous roadway features, determine priorities for the correction of such features, identify the 100 most dangerous roads in the State, and evaluate the progress made each year in achieving State safety goals. Eligible projects under this program may be carried out on any public road, pathway or trail, may improve the safety data system of the State, may maintain minimum levels of retroreflectivity, or be consistent with the Federal Highway Administration’s publication titled “Highway Design Handbook for Older Drivers and Pedestrians”. Funds apportioned to a State under section 104(b) may not be used to carry out a program to purchase, operate or maintain an automated traffic enforcement system. The definition of “automated traffic enforcement system” includes enforcement systems such as red light cameras, speed cameras, or license plate readers.

Subsection (d) allows States to flex not more than 10 percent of their apportioned funds from this section for safety projects under any other section.

Subsection (e) requires each State to have in effect, as part of their highway safety improvement program, a safety data system that collects and maintains safety data on all public roads in that State.

Subsection (f) requires all highway safety plans and reports submitted by States under this section to be available to the public.

Subsection (g) prohibits any reports or data compiled under this section to be admissible as evidence in a Federal or State court proceeding.

Subsection (h) sets the Federal cost share for a project carried out under this section at 90 percent.

### **SEC.1302. RAILWAY-HIGHWAY CROSSINGS.**

Subsection (a) amends 23 U.S.C. §130(d) by requiring each State to make surveys and schedules available to the public.

Subsection (b) amends 23 U.S.C. §130 by adding a new subsection (m) which requires each State to submit a report to the Secretary on the 10 railway-highway crossings in the State that have the greatest need for safety improvements, an action plan to address such safety needs, and a list of projects carried out at such crossings over the previous two years. All reports must be posted on the U.S. Department of Transportation's and each State's Department of Transportation website. Reports and data compiled under this subsection are not admissible as evidence in a Federal or State court proceeding. The Secretary may withhold funding under section 130 if a State fails to comply with this subsection.

#### SEC.1303. HIGHWAY WORKER SAFETY.

Subsection (a) directs the Secretary to modify section 630.1108(a) of title 23, Code of Federal Regulations, to ensure that highway construction workers are properly separated from highway traffic with proper barriers.

Subsection (b) directs the Secretary to modify regulations issued pursuant to section 1402 of SAFETEA-LU that would allow fire services personnel to comply with apparel requirements set forth in such regulation.

### **SUBTITLE D – FREIGHT MOBILITY**

#### SEC. 1401. NATIONAL FREIGHT POLICY.

Subsection (a) directs the Secretary to develop a 5-year National Freight Policy in consultation with public and private sector freight stakeholders.

Subsection (b) directs the National Freight Policy to specify goals, objectives, and milestones with respect to the expansion of freight transportation capacity and the improvement of freight transportation infrastructure. The policy is to identify strategies, protocols, and processes to help achieve the goals and objectives and implement the policy.

Subsection (c) directs the Secretary, in developing the National Freight Policy, to consider the goals of investing in freight infrastructure to strengthen economic competitiveness, meeting standards, expanding to meet future demand, improving safety, implement new technologies, and spurring performance and innovation, among other goals.

Subsection (d) requires the Secretary to include the National Freight Policy in the National Strategic Transportation Plan developed under 49 U.S.C. §5205.

Subsection (e) directs the Secretary to make changes to the commodity flow survey conducted by the Bureau of Transportation Statistics that will reduce identified freight data gaps and deficiencies and assist in forecasting transportation demand.

#### SEC. 1402. STATE FREIGHT ADVISORY COMMITTEES.

This section directs the Secretary to encourage States to establish a freight advisory committee consisting of public and private sector freight stakeholders. The committee is required to advise the State on freight priorities and serve as a forum of discussion for State freight transportation decisions, among other roles.

#### SEC. 1403. STATE FREIGHT PLANS.

This section directs the Secretary to encourage each State to develop a freight plan that provides for the State's immediate and long-range planning activities and investments with respect to freight. The freight plan may be separate or part of the statewide strategic long-range transportation plan.

#### SEC. 1404. TRUCKING PRODUCTIVITY.

Under current Federal law, there are weight limits for trucks on the Interstate system as well as width and length limits on the National Network (a system of approximately 209,000 miles of roads including the Interstate System specifically designated in Federal regulations). In addition to these general standards, Federal law includes provisions, exemptions and variations applicable to particular states, routes, vehicles, or operations creating a patchwork of restrictions across the United States. This section makes changes to the current size and weight limits in order to increase the efficiency of freight movement in the United States.

This section authorizes the Secretary to carry out a pilot program in three states to allow, by special permit, the operations of a vehicles with gross weight of up to 126,000 pounds on no more than three segments of an Interstate highway that can be contiguous up to 25 miles each.

This section authorizes States to issue special permits for overweight vehicles during a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. This section provides a weight limit exemption for emergency vehicles. This section requires States to allow access on the National Network and reasonable access highways for double trailer trucks with 33-foot trailers and single trailer trucks with 53-foot trailers. This section prohibits a States from imposing a length limitation of less than 80 feet on an automobile transporter, a length limitation of less than 82 feet on light- and medium-duty trailer manufacturers hauling trailers in a double configuration, or a kingpin-to-rear axle distance of 46 feet on livestock haulers. This section allows buses purchased after October 1, 2012, with a device for carrying luggage to operate with lengths up to 47 feet.

#### SEC. 1405. STUDY WITH RESPECT TO TRUCK SIZES AND WEIGHTS.

This section requires the Secretary to conduct a 3-year study with respect to truck sizes and weights. The Secretary shall examine the effect on principal arterial routes and National Highway System intermodal connectors that allowing nationwide operation of each covered truck configuration would have.

This section requires the Secretary to evaluate the effect on safety of allowing specified truck configurations to operate, to estimate the full cost responsibility associated with each truck,

to examine the ability of a representative sample of regions to meet repair and reconstruction needs, to estimate the extent to which freight would be diverted from other surface transportation modes to principal arterial routes and National Highway System intermodal connectors.

#### SEC. 1406. MAXIMUM WEIGHT INCREASE FOR IDLE REDUCTION TECHNOLOGY ON HEAVY DUTY VEHICLES.

This section increases the maximum gross vehicle weight limit and the axle weight limit for any heavy duty vehicle equipped with idle reduction technology from 400 pounds to 550 pounds.

### **SUBTITLE E – FEDERAL LANDS AND TRIBAL TRANSPORTATION**

#### SEC. 1501. FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.

This section replaces sections 201, 202, 203, and 204 of title 23 U.S.C. with section 201, general provisions, section 202, the federal lands transportation program and section 203, the tribal transportation program.

23 U.S.C. §201 is amended by creating two new programs; the tribal transportation program and the federal lands transportation program. Subsection (a) establishes guidelines for the programs and requires the programs to be administered by the Secretary of Transportation, in conjunction with the other Secretaries of the appropriate land management agencies. The Secretary charged with administering funds under the programs can enter into contractual obligations for engineering or related work for the design, development, and acquisition associated with a project or plans, specifications, and estimates associated with a project.

The Secretary shall direct not less than 10 percent of any unused obligation authority for 23 U.S.C. §202 to the competitively awarded high priority projects program established under the tribal funding formula in 23 U.S.C. §202. The Federal share payable for a project carried out under 23 U.S.C. §202 and §203 shall be 100 percent. The Federal share payable for operating expenses under 23 U.S.C. §203 shall be 50 percent and the Federal share payable for operating expenses under 23 U.S.C. §202 shall be consistent with the historical federal share before date of enactment of this Act.

Subsection (e) requires the Secretary, in consultation with the other Federal land management agencies, to establish transportation planning procedures for tribal transportation facilities and Federal lands transportation facilities. As part of the transportation planning process, the Secretary shall develop a transportation improvement program consistent with the requirements of this subsection. The Secretary may use up to 5 percent of funds made available for 23 U.S.C. §203 for implementing activities described in this section and transportation planning activities.

The Secretary establishes the tribal transportation program under 23 U.S.C. §202 to distribute funding to tribes for projects described in subsection (b). The Secretary has the authority to enter into contracts with States and tribes with respect to carrying out this section.



Paragraph (6) limits the amount the Secretary or the Secretary of the Interior may spend on program management, oversight, and administration to 5 percent of section 202 funds. With the consent of a tribe, the Secretary or a tribe may use funding under this section for maintenance and amount that does not exceed 25 percent of such funds or \$500,000.

The Bureau of Indian Affairs shall maintain primary responsibility for road maintenance programs on tribal reservations. The Secretary of the Interior shall ensure funds made available for maintenance of tribal transportation facilities shall be supplementary. States and tribes may enter into a road maintenance agreement. States, counties and other political subdivisions of a State shall be accepted when constructing or improving a tribal transportation facility. States may provide a portion of their apportioned funds under chapter I of title 23 U.S.C. to a tribe for projects on a tribal transportation facility. Construction of a project under 23 U.S.C. §202 shall be performed through a competitively awarded contract.

Funds authorized to be appropriated under 23 U.S.C. §202 shall be allocated among the tribes in accordance with the funding formula established under this section. Nothing in this section should be construed to require the funding formula maintained by the Secretary of the Interior, as of date of enactment of this Act, to be altered or amended. The Secretary of the Interior shall maintain a national tribal transportation facility inventory that contains eligible facilities under the tribal transportation program and shall accept into the inventory facilities submitted to the Secretary of the Interior by tribes no later than September 30, 2012 and every two years after such date. The inventory shall include facilities described in paragraph (B). Bridges included in the inventory shall be included on the national bridge inventory under 23 U.S.C. §151.

The Secretary of the Interior shall maintain regulations governing the funding formula. The basis for the funding formula shall be consistent with currently established procedures under such formula. As part of the formula, the Secretary shall continue the high priority projects program established prior to date of enactment of this Act. No later than 30 days after funds are made available to the Secretary or Secretary of the Interior for this section, the funds shall be distributed to and available for tribes in accordance with the funding formula. A tribe may enter into a contract and agreement with funds made available under this section if they meet the health and safety requirements under paragraph (6). Contracts and agreements with tribes for program costs shall be made pursuant to paragraph (7). Contracts and agreements with tribes for tribal transportation facility projects and programs shall be made pursuant to paragraph (8).

Subsection (d) allows the greater of 2 percent or \$35,000 of funds under this section to be available for transportation planning. Subsection (e) requires the Secretary to ensure that funds made available for a project under this section are supplementary to and not in lieu of the obligation of fair and equitable share of funds apportioned to such State under 23 U.S.C. §104. Subsection (f) allows a tribe to be eligible for competitive or discretionary grants under title 23 U.S.C. or chapter 53 of title 49 U.S.C.

23 U.S.C. §203, the federal lands transportation program, is established to distribute funding to the federal land management agencies. Funding for the program would be distributed to the National Park Service, the Forest Service, the United States Fish and Wildlife Service, the Corps of Engineers, and the Bureau of Land Management. Of the amounts authorized to be appropriated for the federal lands transportation program, the National Park Service, the Forest

Service, and the United States Fish and Wildlife Service shall receive a minimum apportionment. The remaining funding is distributed through an application process by each federal land management agency.

The Secretary of Transportation considers the extent to which each agency addresses transportation goals, including performance management as appropriate; addresses the resource management goals of the Secretaries of the respective federal land management agencies; and supports high-use federal recreation sites or economic generators. This section requires the federal land management agencies to maintain inventories of their transportation facilities that provide access to high-use federal recreation sites or are administered by the appropriate agency.

#### SEC. 1502. DEFINITIONS.

Subsection (a) repeals definitions in 23 U.S.C. §101(a).

Subsection (b) adds definitions for ‘Federal land management agency’, ‘Federal lands’, ‘Federal lands highway’, ‘Federal lands transportation facility’, ‘tribal road’, and ‘tribal transportation facility’ to 23 U.S.C. §101(a).

#### SEC. 1503. CONFORMING AMENDMENTS.

Subsection (a) amends 23 U.S.C. §120 by replacing the terms repealed in section 1502 of this Act with new terms added in 23 U.S.C. §101(a).

Subsection (b) amends 23 U.S.C. §138(a) by replacing the reference to 23 U.S.C. §204 with a reference to 23 U.S.C. §203.

Subsection (c) amends 23 U.S.C. §139(j)(3) by changing the paragraph heading and replacing the reference to 23 U.S.C. §204 with a reference to 23 U.S.C. §202 and §203.

Subsection (d) amends 23 U.S.C. §217(c) by changing the subsection heading and replaces the reference to term repealed in section 1502 of this Act with new terms in 23 U.S.C. §101(a).

Subsection (e) amends 23 U.S.C. §315 by replacing the reference to 23 U.S.C. §204(f) and §205(a) with a reference to 23 U.S.C. §203(b)(4) and §205(a).

#### SEC. 1504. REPEALS; EFFECTIVE DATE.

Subsection (a) repeals 23 U.S.C. §204 and §214.

Subsection (b) clarifies that an amendment or repeal made by this subtitle shall not affect funds apportioned or allocated before the effective date.

#### SEC. 1505. CLERICAL AMENDMENT.

This section amends the analysis for chapter 2.

#### SEC. 1506. TRIBAL TRANSPORTATION SELF-GOVERNANCE PROGRAM.

This section creates a new 23 U.S.C. §207, the tribal transportation self-governance program.

Subsection (a) requires the Secretary to establish the tribal transportation self-governance program.

Subsection (b) establishes the requirements that a tribe must meet in order to be eligible to participate in the program. The tribe must officially make a request to the Secretary to participate in the program and demonstrate financial stability and financial management capability for the preceding 3 fiscal years. For a tribe to meet the financial stability and financial management capability requirements, they must have had no uncorrected significant and material audit exceptions in the annual audit of the tribe's self-determination contracts or self-governance funding agreements with any Federal agency.

Subsection (c) requires a compact with the Secretary and a tribe in order for a tribe to participate in the program. The compact establishes the general terms of the governmental relationship between the tribe and the United States. The compact can be amended only by mutual agreement.

Subsection (d) requires the Secretary to enter in to an annual funding agreement with a tribe as part of the compact under subsection (c). The funding agreement authorizes the tribe to plan, conduct, consolidate, administer, and receive full tribal share funding and funding to tribes from discretionary grants for all programs, services, functions, and activities that are made available to the tribe for the tribal transportation program and other programs administered by the Secretary. If a State elects to provide a tribe with funds from the State's allocation under chapter I of title 23 for an eligible project under 23 U.S.C. §202, such funds shall be included in the funding agreement. If a State provides funds to a tribe through the funding agreement, the State is not responsible for constructing, maintaining, administering, or supervising a project using such funds. If a State provides funds to a tribe through the funding agreement, the tribe is responsible for constructing, maintaining, administering, or supervising a project using such funds. Pending a mutual agreement, the funding agreement shall include provisions for flexible and innovative financing. The Secretary may issue regulations on such flexible and innovative financing provisions but if no regulations are issued the provisions shall be consistent with agreements under contracts and agreements with tribes for tribal transportation programs and projects or regulations issued by the Department of the Interior relating to flexible financing. Tribes shall be eligible to participate in any competitive or discretionary grant program under transportation programs that States are allowed to participate in. The terms of a funding agreement shall identify programs, services, functions, and activities to be performed or administered by a tribe. All funding agreements established shall remain in effect until a subsequent funding agreement is executed. The Secretary cannot revise, amend, or add terms to a new or subsequent funding agreement without tribal consent unless such terms are required by Federal law.

Subsection (e) authorizes a tribe under a funding agreement to redesign or consolidate programs, services, function, and activities under the funding agreement. A tribe may reallocate or redirect funds for such programs, services, functions, and activities if the funds are expended on projects in the transportation improvement program and used with appropriations Acts and other statutory limitations. Discretionary funds received by a tribe shall be used for the purposes for which the funds were authorized. A tribe may retrocede to the Secretary programs, services, functions, or activities in a compact or funding agreement. Such agreed upon retrocession shall be effective within the timeframe described in the compact or funding agreement or if no timeframe exists the earlier of 1 year after the date of submission of the request or the date on which the funding agreement expires or such date as agreed upon by the parties.

Subsection (f) establishes what official in the Department is allowed to make a decision that constitutes final agency action. The Secretary is authorized to terminate the compact or funding agreement and reassume the remaining funding associated with the reassumed programs, services, functions and activities under a compact or funding agreement if the Secretary finds imminent jeopardy to a trust asset, natural resource, or public safety and health that is caused by an act or omission of the Indian tribe and that arises out of a failure to carry out the compact or funding agreement or gross mismanagement with respect to funds or programs transferred to the tribe under the compact or funding agreement. The Secretary shall not terminate a compact or funding agreement unless there is written notice and a hearing on the record to the tribe subject to the compact or funding agreement and the tribe has not taken corrective action to remedy the mismanagement of funds. The Secretary may immediately terminate the compact or funding agreement if the Secretary finds imminent substantial and irreparable jeopardy to a trust asset, natural resource, or public health and safety and the jeopardy arises from the failure to carry out the compact or funding agreement. The Secretary bears the burden of proof for a termination of a compact or funding agreement.

Subsection (g) requires tribes receiving funds under this program to apply cost principles under the applicable Office of Management and Budget circular.

Subsection (h) establishes the procedures for the transfer of funds under the program. Construction projects carried out by a tribe under this program shall be pursuant to standards set forth in applicable regulations or approval by the Secretary and shall be monitored by the Secretary.

Subsection (j) requires the Secretary to interpret laws, executive orders, and regulations that will facilitate the inclusion of programs, services, functions, and activities as part of the compact or funding agreement and implementation of such agreements. A tribe may request a waiver for a regulation pursuant to a compact or funding agreement. The Secretary shall approve or deny a waiver request within 90 days of tribal notice. The Secretary may deny a waiver request only if the Secretary finds the regulation may not be waived because a waiver is prohibited by Federal law. If no approval or rejection of a waiver request is issued by the Secretary within 90 days, the request is deemed approved.

Subsection (k) requires the Secretary to maintain current program and funding agreements or enter into new agreements upon the election of a tribe.

Subsection (l) determines which provisions in the Indian Self-Determination and Education Assistance Act apply to compacts or funding agreements under this program.

Subsection (m) establishes the definitions for ‘compact’, ‘department’, ‘eligible Indian tribe’, ‘funding agreement’, ‘Indian tribe’, ‘program’, ‘Secretary’, and ‘transportation programs’. Definitions in sections 4 and 505 of the Indian Self-Determination and Education Assistance Act apply, unless except as otherwise provided.

Subsection (n) requires the Secretary to establish regulations to carry out this section no later than 90 days after enactment of this Act. All regulations for this section shall be posted in the Federal Register. The authority of the Secretary to issue regulations under this section shall expire 30 months after date of enactment. The expiration of promulgated regulations may be extended up to 180 days if a committee cannot meet the deadline. A negotiated rulemaking committee shall be established with members of the Federal and tribal governments. If regulations are not promulgated, this section’s effect shall not be limited. A tribe in a compact or funding agreement under this section shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Department of Transportation, except regulations under this section.

## **SUBTITLE F – PROGRAM ELIMINATION AND CONSOLIDATION**

### **SEC. 1601. PROGRAM ELIMINATION AND CONSOLIDATION.**

Subsection (a) directs that a repeal or amendment made by this section will not affect funds apportioned or allocated before the effective date of repeal.

23 U.S.C. §110, Revenue Aligned Budget Authority, is repealed.

23 U.S.C. §117, High Priority Projects Program, is repealed.

23 U.S.C. §118(c), Set Asides for Interstate Discretionary Projects, is repealed.

23 U.S.C. §136, Control of Junkyards, is repealed.

23 U.S.C. §144, Highway Bridge Program, is repealed.

23 U.S.C. §152, Hazardous Elimination Program, is repealed.

23 U.S.C. §157, Safety Incentive Grants for the Use of Seat Belts, is repealed.

23 U.S.C. §155, Access Highways to Public Recreation Areas on Certain Lakes, is repealed.

23 U.S.C. §160, Reimbursement for Segments of the Interstate System Constructed Without Federal Assistance, is repealed.

23 U.S.C. §162, National Scenic Byways Program, is repealed.

23 U.S.C. §212, Inter-American Highway, is repealed.

23 U.S.C. §216, Darien Gap Highway, is repealed.

23 U.S.C. §217, State Coordinators, is amended by striking subsection (d) and redesignating the other subsections accordingly.

23 U.S.C. §218, Alaska Highway, is amended by striking the first 2 sentences in subsection (a), “No expenditures” in paragraph (C), and all of subsection (b).

23 U.S.C. §303, Management Systems, is repealed.

23 U.S.C. §309, Cooperation with Other American Republics, is repealed.

23 U.S.C. §319, Landscaping and Scenic Enhancement, is amended by striking subsection (b).

23 U.S.C. §322, Magnetic Levitation Transportation Technology Deployment Program, is repealed.

Section 1117 of SAFETEA-LU, Transportation, Community, and System Preservation Program, is repealed.

Section 1301 of SAFETEA-LU, Projects of National and Regional Significance, is repealed.

Section 1302 of SAFETEA-LU, National Corridor Infrastructure Improvement Program, is repealed.

Section 1305 of SAFETEA-LU, Truck Parking Facilities, is repealed.

Section 1306 of SAFETEA-LU, Freight Intermodal Distribution Pilot Grant Program, is repealed.

Section 1307 of SAFETEA-LU, Deployment of Magnetic Levitation Transportation Projects, is repealed.

Section 1308 of SAFETEA-LU, Delta Region Transportation Development Program, is repealed.

Section 1404 of SAFETEA-LU, Safe Routes to School Program, is repealed.

Section 1410 of SAFETEA-LU, National Work Zone Safety Information Clearinghouse, is repealed.

Section 1411 of SAFETEA-LU, Roadway Safety, is repealed.

Section 1502 of SAFETEA-LU, Highways for LIFE Pilot Program, is repealed.

Section 1604(b) of SAFETEA-LU, Express Lanes Demonstration Program, is repealed.

Section 1604(c) of SAFETEA-LU, Interstate System Construction Toll Pilot Program, is repealed.

Section 1803 of SAFETEA-LU, America's Byways Resource Center, is repealed.

Section 1804 of SAFETEA-LU, National Historic Covered Bridge Preservation, is repealed.

Section 1807 of SAFETEA-LU, Nonmotorized Transportation Pilot Program, is repealed.

Section 1906 of SAFETEA-LU, Grant Program to Prohibit Racial Profiling, is repealed.

Section 1907 of SAFETEA-LU, Pavement Marking Systems Demonstration Projects, is repealed.

Section 1958 of SAFETEA-LU, Limitation on Project Approval, is repealed.

## **SUBTITLE G – MISCELLANEOUS**

### **SEC. 1701. TRANSPORTATION ENHANCEMENT ACTIVITY DEFINED.**

This section amends the definition for 'transportation enhancement activity' in 23 U.S.C. §101(a).

### **SEC. 1702. PAVEMENT MARKINGS.**

This section amends 23 U.S.C. §109 by prohibiting the Secretary from approving pavement marking projects that use glass beads containing more than 200 parts per million of arsenic or lead.

### **SEC. 1703. REST AREAS.**

Subsection (a) amends 23 U.S.C. §111 by adding a provision that prohibits the changing of the boundary of any Interstate System right-of-way for construction of an automotive service station or other commercial establishment. A new subsection (b) is added to allow a State to establish a rest area along the Interstate. The rest area may be operated by a private entity to

provide limited commercial service. Revenues received from the operation of such rest areas shall be used by the State for other rest areas in the State.

Subsection (b) allows, under specific circumstances, sponsorship signs of rest areas.

#### SEC. 1704. JUSTIFICATION REPORTS FOR ACCESS POINTS ON THE INTERSTATE SYSTEM.

This section amends 23 U.S.C. §111 by adding a new subsection (e) at the end to allow the State transportation department to approve a justification report for an access point on the Interstate System if such a report is requested.

#### SEC. 1705. PATENTED OR PROPRIETARY ITEMS.

This section amends 23 U.S.C. §112 by adding a new subsection (h) at the end to require the Secretary to approve the use of a patented or proprietary item with Federal funds if the State certifies that no suitable alternative exists, that the patented or proprietary item will be labeled as such in bid documents, and any patented or proprietary items will be available to complete the project.

#### SEC. 1706. PREVENTIVE MAINTENANCE.

This section amends 23 U.S.C. §116 by adding a new subsection (e) at the end to add definitions for ‘preventive maintenance’ and ‘pavement preservation programs and activities.’

#### SEC. 1707. MAPPING.

Subsection (a) amends 23 U.S.C. §306 to require the Secretary to carry out this section and modify the appropriate role of State governments. A new subsection (c) is added at the end which requires the Secretary to develop a process for the oversight and monitoring of the compliance of each State with guidance from subsection (b).

Subsection (b) requires the Secretary to conduct a survey of all States to determine what percentage of projects in each State utilized private sector sources for mapping and surveying services.

#### SEC. 1708. FUNDING FLEXIBILITY FOR TRANSPORTATION EMERGENCIES.

This section adds a new 23 U.S.C. §330. It allows the chief executive of a State to use any amounts apportioned to that State for the repair or replacement of a transportation facility that the chief executive has declared as a state of emergency. The emergency declaration requirements that a chief executive must meet in order to qualify for this section are defined. In addition, the terms ‘covered funds’, ‘emergency’, and ‘transportation facility’ are defined.

#### SEC. 1709. BUDGET JUSTIFICATION.



This section amends subchapter I of chapter 3 of title 49 U.S.C. by adding a new section, section 310. Section 310 requires the Secretary and the head of each modal administration to submit a budget justification with the President's annual budget submission to Congress.

#### SEC. 1710. EXTENSION OF OVER-THE-ROAD BUS AND PUBLIC TRANSIT VEHICLE EXEMPTION FROM AXLE WEIGHT RESTRICTIONS.

This section amends section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 by changing the heading of paragraph (1), striking the date in paragraph (1), and striking the date in paragraph (2)(A).

#### SEC. 1711. REPEAL OF REQUIREMENT FOR INTERSTATE DESIGNATION.

This section amends section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 by allowing the designated routes to be designated as a route on the Interstate System if they meet the requirements in section 109(b) of title 23.

#### SEC. 1712. RETROREFLECTIVITY.

This section requires the Secretary to remove all compliance dates for highway sign retroreflectivity requirements in the Manual on Uniform Traffic Control Devices.

#### SEC. 1713. ENGINEERING JUDGMENT.

This section requires the Secretary to issue guidance to States to clarify that standards for the design and application of traffic control devices shall not be considered a substitute for an engineering judgment.

#### SEC. 1714. EVACUATION ROUTES.

This section requires each State to give adequate consideration of evacuation routes when allocating funds apportioned under title 23, U.S.C.

#### SEC. 1715. TRUCK PARKING.

This section requires the Secretary to conduct a survey of each State to develop a system of metrics to measure the adequacy of commercial motor vehicle parking facilities in the State, assess the commercial motor vehicle traffic volume in the State, and evaluate the capability of the State to provide adequate parking and rest facilities for commercial motor vehicles engaged in interstate transportation. Eligible truck parking projects a State may obligate funds towards is defined.

#### SEC. 1716. USE OF CERTAIN ADMINISTRATION EXPENSES.

This section allows funds made available in 23 U.S.C. §104(a) to be used for no more than \$2,000,000 for operating the national work zone safety information clearinghouse, the public road safety clearinghouse, and providing work zone safety grants.

#### SEC. 1717. TRANSPORTATION TRAINING AND EMPLOYEMENT PROGRAMS.

This section encourages the Secretary of Education and the Secretary of Labor to use funds for training and employment education programs to encourage development of transportation-related careers and trades.

#### SEC. 1718. ENGINEERING AND DESIGN SERVICES.

This section directs State department of transportation's to utilize commercial enterprises for the delivery of engineering and design services, to the maximum extent practicable.

#### SEC. 1719. NOTICE OF CERTAIN GRANT AWARDS.

This section requires the Secretary to provide written notice of a covered grant award of at least \$500,000 three business days prior to announcing it publicly.

#### SEC. 1720. MISCELLANEOUS PARKING AMENDMENTS.

This section amends 23 U.S.C. §137(a), §142(a)(1), and §205(d) to allow electric vehicle charging stations to new or previously funded parking facilities to be eligible in this section.

#### SEC. 1721. HIGHWAY BUY AMERICA PROVISIONS.

This section amends 23 U.S.C. §313 to apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under NEPA, regardless of the funding source of such contracts.

#### SEC. 1722. VETERANS PREFERENCE IN HIGHWAY CONSTRUCTION.

This section amends 23 U.S.C. §114 by adding a new subsection, subsection (d). It requires recipients of Federal financial assistance under this chapter to ensure that contractors working on a highway project funded using such assistance give preference in the hiring or referral of laborers on any project for the construction of a highway to veterans who have the appropriate skills and abilities to perform the work required for the project.

#### SEC. 1723. REAL-TIME RIDESHARING.

This section amends 23 U.S.C. §101(a)(2) by defining "real-time ridesharing" as a carpool project.

#### SEC. 1724. STATE AUTONOMY FOR CULVERT PIPE SELECTION.

This section requires the Secretary to modify section 635.411 of title 23 U.S.C. to ensure that States have the autonomy to determine culvert and storm sewer material types to be included in the construction of a project on a Federal-aid highway.

#### SEC. 1725. EQUAL OPPORTUNITY ASSESSMENT.

This section requires the Secretary to assess the extent to which nondiscrimination and equal opportunity exist in the construction and operation of federally funded transportation projects, programs, and activities.

## **TITLE II: PUBLIC TRANSPORTATION**

#### SEC. 2001. SHORT TITLE; AMENDMENTS TO TITLE 49, UNITED STATES CODE.

The short title is the “Public Transportation Act of 2012”.

Amendments or repeals referenced in this section are to title 49, United States Code.

#### SEC. 2002. DEFINITIONS.

This section amends 49 U.S.C. §5302(a) general definitions to increase the amount of Federal transit formula funding that a State or transit agency can expend for paratransit and other Americans with Disabilities Act transportation services from 10 to 15 percent of the recipient's annual formula apportionment. This section also adds a new defined term, “rural area”, to describe an area of under 50,000 in population. This term is synonymous with the terms "nonurbanized areas" and "areas other than urbanized areas" otherwise utilized in this chapter.

#### SEC. 2003. PLANNING PROGRAMS.

This section makes minor amendments to 49 U.S.C. §5305 to conform with the unified planning title.

#### SEC. 2004. PRIVATE ENTERPRISE PARTICIPATION.

This section amends 49 U.S.C. §5306(a) by striking “, as determined by local policies, criteria, and decision-making”.

#### SEC. 2005. URBANIZED AREA FORMULA GRANTS.

This section amends 49 U.S.C. §5307(b) regarding the general authority for urbanized area formula grants. Currently, only urbanized areas of less than 200,000 in population can utilize urbanized area formula grant funds for up to 50 percent of operating costs of equipment and facilities, after netting out farebox revenues. This amendment extends operating flexibility to small transit agencies operating in areas greater than 200,000 in population. Those agencies that

operate fewer than 75 buses in peak service hours can utilize formula grant funds for up to 50 percent of net operating costs, and agencies that operate between 76 and 99 buses can utilize formula grant funds for up to 25 percent of net operating costs.

This section also strikes subparagraph (d)(1)(k) that requires transit agencies to expend 1 percent of urbanized area formula grant funds on transit enhancements.

#### SEC. 2006. CAPITAL INVESTMENT GRANTS.

This section amends 49 U.S.C. §5309, rewriting the Federal new start and small start program to simplify, streamline, and speed up the project development and evaluation process while retaining the program's competitive and mode-neutral character.

The new section 5309 language gives the Secretary the authority to make grants to assist State and local governments in financing new fixed guideway capital projects. There are two types of new fixed guideway capital projects: new start projects, which involve Federal assistance under this section of more than \$75 million, and small start projects, which involve less than \$75 million Federal assistance under this section and have a total project cost of less than \$250 million. Section 5309 no longer includes authority for fixed guideway modernization projects; these projects are authorized under 49 U.S.C. §5337. Section 5309 no longer includes authority for bus purchases for rehabilitation and replacement; these projects are now authorized in a formula program under 49 U.S.C. §5310. The Secretary cannot approve a grant unless it is determined that the project is a part of a long-range transportation plan and the applicant has the necessary legal, financial, and technical capacity to carry out a project.

Subsection (d) directs that new start projects be carried out through a full funding grant agreement. Only projects that are authorized for project development, have been adopted in the local transportation plan as the locally preferred alternative, and are rated as high, medium-high, or medium can receive financial assistance. Project benefits are evaluated on the basis of cost effectiveness, mobility and accessibility benefits, congestion relief, reduction in energy consumption, economic development effects, and private contributions to the project. Local financial commitment is evaluated on the basis of adequate contingency funds, local funding sources for capital and operations that are stable and reliable, the use of private contributions and public-private partnerships, the extent to which the local financial commit exceeds the required match, and whether any elements of the total public transportation system have been or will be financed without Federal funding. Each criteria is evaluated on a five-point scale, and all criteria must be given comparable, but not necessarily equal, numerical weight.

Subsection (e) sets the requirements and grant assistance criteria for small start projects. Projects that require less than \$25 million in Federal assistance under this section can be exempt from the evaluation process, or can utilize special warrants to expedite the project's advancement through the evaluation process. Projects must be adopted as the locally preferred alternative in local transportation plans and have a local financial commitment that is stable and dependable. Project benefits are evaluated on the basis of cost effectiveness, mobility and accessibility benefits, congestion relief, and economic development effects. The Secretary is directed to assign a rating for each criterion on a five-point scale based on the benefits of the project and

local financial commitment. The Secretary may execute an expedited grant agreement to include a commitment to provide funding for the project in future fiscal years if Federal assistance cannot be provided in a single grant. The Secretary is required to notify the appropriate committees of Congress 10 days before making a grant award or agreement. Small starts projects include corridor-based bus projects if a majority of the project operates in a separate right-of-way during peak operating hours, or the project represents a substantial investment in a defined corridor.

Subsection (f) exempts projects that have already entered final design or that are under a letter of intent, early systems work agreement or a full funding grant agreement before the date of enactment from the new program requirements set forth in subsections (d) and (e).

Subsection (g) defines the rules for issuing letters of intent, full funding grant agreements, and early systems work agreements. For both full funding grant agreements and early system work agreements, repayment to the Government is required if the applicant does not carry out the project for reasons within the project sponsor's control. Before and after studies are required for each project, in order to compare estimated project costs, benefits, and ridership to actual data once the project has been built. The subsection limits the amount of contingent commitment authority for the post-authorization period to be equal to the total of the last three fiscal years of new start funding. Finally, this subsection requires a Congressional notification period of 21 days when a full funding grant agreement is to be entered into, and 10 days when a letter of intent or early system work agreement is to be entered into.

Subsection (h) directs the Secretary to estimate the net capital project cost of a new fixed guideway capital project. Grants shall be for 80 percent of the net capital project cost unless the grant recipient requests a lower grant percentage. However, project sponsors are incentivized to "overmatch" because it will improve the project's local financial commitment rating.

Subsection (i) grants the Secretary the power to pay the Government's share of the net capital project cost if the State or local authority carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements.

Subsection (j) establishes a period of availability for new fixed guideway capital projects of 3 fiscal years after the fiscal year in which the funds are appropriated. Unobligated funds after such period shall be rescinded and deposited in the General Fund of the Treasury for the sole use of deficit reduction.

Subsection (k) requires the Secretary to submit to Congress an annual report on funding recommendations for new start projects. It also requires a biennial GAO review of the Secretary's implementation of the fixed guideway capital project evaluation and rating process.

Subsection (l) requires the Secretary to submit to Congress a report containing a summary of the results of the before and after studies required under subsection (g)(2)(C).

Subsection (m) sets aside \$150 million for each of fiscal years 2013 through 2016 for small start projects, with the remainder allocated for new start projects.

Subsection (n) requires the Secretary to develop and utilize special warrants to advance projects and provide Federal assistance under this section. Special warrants may be utilized to advance new fixed guideway projects without requiring evaluations and ratings.

Subsection (o) directs the Secretary to issue regulations establishing new program requirements for the programs created under this section with 240 days of enactment of the Public Transportation Act of 2012.

#### SEC. 2007. BUS AND BUS FACILITIES FORMULA GRANTS.

This section amends 49 U.S.C. §5310. The previous section 5310 program, formula grants for special needs of elderly individuals and individuals with disabilities, has been consolidated in the new coordinated access and mobility program under 49 U.S.C. §5317.

The new section 5310 bus and bus facilities formula grant programs gives the Secretary the authority to assist States and local governmental authorities in financing capital projects to construct bus-related facilities and replace, rehabilitate and purchase buses and related equipment. Eligible recipients are providers of public transportation in urbanized areas that operate fixed route bus services but do not operate heavy rail, commuter rail, or light rail services. A recipient that receives a grant may allocate it to subrecipients that are public agencies, private companies, or private nonprofit organizations.

Grants under this section shall be distributed on a formula basis as provided in 49 U.S.C. §5336 (other than subsection (b)). Capital project grants shall be for 80 percent of the net project cost of the project, though the recipient may provide additional local matching amounts.

Grants apportioned under this section are available for three years after the fiscal year in which the grant is apportioned, and grant funds that remain unobligated at the end of that period may be reapportioned the following fiscal year.

The chief executive officer of a State may transfer any part of the State's funds made available under this section to urbanized areas of less than 200,000 in population or to rural areas in the State. Urbanized areas with a population of at least 200,000 may transfer a part of its grant funds to the chief executive officer of a State.

49 U.S.C. §5302, §5318, §5323(a)(1), §5323(d) and (f), §5332, and §5333 all apply to this section and to a grant made with funds apportioned under this section.

#### SEC. 2008. RURAL AREA FORMULA GRANTS.

This section amends 49 U.S.C. §5311, formerly known as formula grants for other than urbanized areas. Subsection (b) sets forth program goals. Subsection (c) amends the rural transit assistance program, which provides onsite technical assistance to local and regional governments

and agencies in rural areas, to require that contracts be competitively selected. Subsection (d) amends the apportionment formula to States, providing that 70 percent of funds be apportioned according to a State's rural population in ratio to the entire country's rural population; 20 percent be apportioned according to a State's rural land area in ratio to the entire country's rural land area; and 10 percent be apportioned according to service factors, including ridership and revenue vehicle miles. Apportioning a small percentage of funds according to service factors will incentivize States to improve rural transit system performance. Subsection (f) decreases the amount of grant funds under this section that a State can use for administrative expenses, planning, and technical assistance from 15 percent to 10 percent.

Subsection (h) amends subsection 5311(g) regarding Government's share of costs. The new provision allows States to use private intercity bus operator capital cost contributions towards feeder bus service and connecting unsubsidized intercity bus route segments as local match for intercity bus service carried out within a State and supported by funding under this section. This provision codifies a pilot program that has been carried out by the Federal Transit Administration (FTA) since 2006, and will help States retain effective intercity bus routes, especially in rural areas.

#### SEC. 2009. TRANSIT RESEARCH.

This section consolidates transit research programs currently spread through 49 U.S.C. §5312, §5313, §5314, and §5315 into a single transit research authorization. Amounts made available under 49 U.S.C. §5338(c) for transit research under this section and for technical assistance and training under 49 U.S.C. §5322 are available to the Secretary for grants, contracts, cooperative agreements, or other agreements. The Secretary is authorized to establish a Government share of project costs that is consistent with potential financial benefits to an entity under a research grant or contract. The transit cooperative research program formerly authorized under section 5313 is authorized in the new subsection (c). The National Transit Institute formerly authorized under 49 U.S.C. §5315 is now authorized as a competitive program under 49 U.S.C. §5322.

#### SEC. 2010. COORDINATED ACCESS AND MOBILITY PROGRAM FORMULA GRANTS.

This section amends 49 U.S.C. §5317 by consolidating three existing human service transportation formula grant programs into a single, flexible program. The 49 U.S.C. §5310 formula grants for special needs of elderly individuals and individuals with disability, 49 U.S.C. §5316 job access and reverse commute formula grants program, and 49 U.S.C. §5317 New Freedom program are combined in the new Coordinated Access and Mobility Program (CAMP), which provides grants to States and designated recipients in urban areas with flexible human service transportation funding with consistent program eligibilities and requirements.

Subsection (a) includes definitions applicable to this section. Subsection (b) establishes the goals of the CAMP program. Subsection (c) lays out the general authority for grants made under this section, which are to provide public transportation services that meet the special transportation needs of elderly and disabled individuals, including new transit services that

exceed the requirements of the Americans with Disabilities Act, and for job access and reverse commute transportation services.

Subsection (d) outlines the formula distribution of funds to grant recipients: 50 percent among designated recipients for urbanized areas with a population of 200,000 or more, 25 percent to States to serve areas populations of less than 200,000, and 25 percent to States to serve rural areas. The Governor of a State may make exceptions if he can certify that all of the objectives of this section are being met in the specified area. The Secretary may establish a minimum apportionment for States and territories.

Subsection (e) establishes a competitive grant process for States and urbanized area recipients of funds. Funds to carry out the activities selected to be funded under this competitive process can be allocated to subrecipients, including nonprofit organizations and private companies. Transportation services for the elderly and people with disabilities are to be carried out by nonprofit organizations or private companies unless a public agency is approved by the grant recipient to coordinate such transportation services, or the public agency certifies nonavailability of nonprofit or private providers of transportation. This is consistent with current law eligibilities under 49 U.S.C. §5310(a)(2).

Subsection (f) directs the Secretary to apply grant requirements for the CAMP program that are consistent with the requirements of 49 U.S.C. §5310, §5316, and §5317 as such sections were in effect before enactment. Subsection (g) lays out requirements that the national CAMP program and activities carried out at the local level that are funded through the CAMP program shall be coordinated with human service transportation activities funded through other Federal departments and agencies. Subsection (h) establishes the Federal share for the grant program, with capital projects eligible to use Federal funds for 80 percent of the net capital costs of the project and operating assistance capped at 50 percent of the net operating costs of the project. The Federal lands program sliding scale is applied to this Federal match, meaning that States with large Federal lands holdings have a slightly higher Federal match.

Subsections (i) and (j) carry over current law language from 49 U.S.C. §5310 regarding leasing vehicles and meal delivery for homebound individuals. Subsection (k) directs the Comptroller General to conduct two studies evaluating the CAMP grant program and submit the results to Congress, two and four years after enactment, respectively. The GAO studies shall include an analysis and description of how CAMP program grant activities are coordinated with transportation activities carried out with grants to State and community programs on aging that are authorized under Title III of the Older Americans Act of 1965.

## SEC. 2011. TRAINING AND TECHNICAL ASSISTANCE PROGRAMS.

This section amends 49 U.S.C. §5322 by consolidating the authorization for national technical assistance. Subsection (c) incorporates the national training program under the National Transit Institute, formerly authorized under 49 U.S.C. §5315, allowing the Secretary to competitively award grants or enter into contracts with a public university to establish a National Transit Institute to support training and educational programs for public transportation employees. Subsection (d) allows the Secretary to enter into competitively selected contracts or



cooperative agreements to provide public transportation-related technical assistance in the areas of Americans with Disabilities Act compliance, coordinated human service transportation, meeting the transportation needs of the elderly, and additional areas of technical assistance, mobility management services, support services, training, and research that the Secretary determines will assist public transportation providers in meeting the goals of this section. Subsection (e) directs training and outreach programs and technical assistance to be paid for with funds authorized under 49 U.S.C. §5338(c).

#### SEC. 2012. GENERAL PROVISIONS.

Subsection (a) amends 49 U.S.C. §5323(i) regarding the Government's share of costs for certain projects. A new paragraph (3) is added to this subsection that will incentive a greater use of vanpool services by: (1) allowing public transit agencies and local governments to use vanpool passenger fare revenue in excess of operating costs as matching funds for Federal transit grant funds, and (2) by allowing private vanpool operators to use passenger fare revenues in excess of operating costs for the acquisition of additional van equipment if the vans will be used only within the Federal grant recipient's transportation service area. A new paragraph (4) is added to this subsection that incentives competitive contracting in public transportation by allowing a 90 percent Federal share for Federal transit capital grants if the transit agency or grant recipient competitively contracts at least 20 percent of its fixed route bus service. A maintenance of effort clause ensures that State and local funding for transit services must be maintained at a level at least equal to the average of the previous 3 fiscal years.

Subsection (b) adds a new subsection (q) to 49 U.S.C. §5323, requiring grant recipients to provide reasonable access for intercity and charter transportation operators to public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes.

Subsection (c) addresses an exemption from the general prohibition on public transportation agencies providing charter bus operations in competition with private bus operators under 49 U.S.C. 5323(d). For the last 3 fiscal years, a single public transit agency has been exempted from enforcement of the charter bus prohibition by a legislative general provision in the annual appropriations bill. This subsection provides that, if the Secretary is prohibited by law from enforcing the charter prohibition, a transit agency covered under this exemption shall be precluded from receiving its urbanized area formula grant funds for that fiscal year.

#### SEC. 2013. CONTRACT REQUIREMENTS.

This section amends 49 U.S.C. §5325(h) by striking “Federal Public Transportation Act of 2005” and inserting “Public Transportation Act of 2012”.

#### SEC. 2014. VETERANS PREFERENCE IN TRANSIT CONSTRUCTION.

This section amends 49 U.S.C. §5325 regarding contract requirements by adding a new subsection (k) requiring grant recipients to ensure that contractors utilizing Federal transit grant

funds give a hiring preference to veterans who have the requisite skills and abilities to perform the construction work required under the contract.

#### SEC. 2015. PRIVATE SECTOR PARTICIPATION.

This section amends chapter 53 of title 49 ,U.S.C. by including new language regarding private sector participation in public transportation. Under subsection (b), the Secretary is directed to take actions to promote better coordination between public and private sector providers of public transportation, by providing technical assistance to grant recipients on practices and methods to best utilize private providers and educating recipients on Federal transit laws and regulations that impact private providers. Under subsection (c), upon request by a new start project sponsor, the Secretary is directed to provide technical assistance for alternative project delivery methods, including identifying best practices for public-private partnerships (P3's), development of standard P3 model contracts, and performing financial assessments to calculate the public and private benefits of a P3 transaction.

Subsection (c) requires the Secretary to identify provisions of chapter 53 of title 49, U.S.C. that impede greater use of P3's and private investment in public transportation, and to procedures and approaches to address such impediments in a manner similar to the Federal Highway Administration's SEP-15 initiative. The Secretary is required to issue a rulemaking implementing the procedures and approaches developed under this new initiative, and to report to Congress 4 years after enactment on the status of the procedures and approaches developed and implemented under this subsection.

Subsection (d) requires the Comptroller General to submit a comprehensive report to Congress on the effect of contracting out public transportation operations and administrative functions on cost, availability and level of service, efficiency, and quality of service. This report shall be submitted to Congress 1 year after enactment.

Subsection (e) requires the Secretary to publish guidance in the Federal Register 1 year after enactment that describes for Federal transit recipients the best way to document compliance with requirements regarding private enterprise participation in public transportation planning and transportation improvement programs.

#### SEC. 2016. PROJECT MANAGEMENT OVERSIGHT.

This section amends 49 U.S.C. §5327(c)(1) by adding 2 new paragraphs to the end. New project management oversight (PMO) set-asides are established: 1 percent PMO set-aside for the fixed guideway modernization program under 49 U.S.C. §5337, which is consistent with the current law set-aside for this program under 49 U.S.C. §5309; and a 0.75 percent PMO set-aside for the CAMP program under 49 U.S.C. §5317.

#### SEC. 2017. STATE SAFETY OVERSIGHT.

This section amends 49 U.S.C. §5330(b). It allows the Secretary to require that up to 100 percent of the amount made available in a State or urbanized area under 49 U.S.C. §5307 be

utilized on capital safety improvement and state of good repair projects on the State or urbanized area's fixed guideway transit systems before any other transit capital project is undertaken if the State has not met certain requirements. These requirements are that there be a State safety oversight agency (SSOA) that has been certified by the Secretary as having adequate technical capacity, personnel resources, and authority under relevant State laws to successfully perform safety oversight for rail transit systems in the State.

#### SEC. 2018. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.

Subsection (a) amends 49 U.S.C. §5336(i) to modify the apportionment amounts of urbanized area formula grant funds. The set-aside for small transit intensive cities (transit systems that exceed the national average in service factors such as ridership and vehicle revenue miles) is increased to a 2 percent set-aside. An additional 1 percent of the urbanized area formula grants program funding is set aside for apportionment to SSOA's in States that have rail transit systems not otherwise under the oversight of the Federal Railroad Administration (e.g. light rail and subway systems, but not commuter rail systems).

Subsection (b) adds a new subsection (k) to the end 49 U.S.C. §5336, authorizing the State safety oversight formula. Under this authorization, Federal funds will be directly apportioned to SSOA's on the basis of a formula to be established by the Secretary that takes into account service factors such as vehicle revenue miles, route miles, and passenger miles. Funds may be used by SSOA's for operational and administrative expenses, including employee training, to assist the SSOA in carrying out its safety oversight responsibilities. The Secretary is required to certify whether each SSOA has adequate technical capacity, personnel resources, and authority under relevant State laws to successfully perform safety oversight for rail transit systems in its State. If certification is denied, the Secretary can require that up to 100 percent of the amount made available for use in a State or urbanized area under 49 U.S.C. §5307 be utilized on capital safety improvement and state of good repair projects on the State's rail transit systems before any other transit capital project is undertaken. An annual report from the Secretary is required, including amounts of funds apportioned under this authorization and the certification status of each SSOA, including what steps an agency that has been denied certification must take to be so certified.

#### SEC. 2019. FIXED GUIDEWAY MODERNIZATION FORMULA GRANTS.

This section amends 49 U.S.C. §5337 by inserting 2 new subsections to establish the general authority and program goals of the fixed guideway modernization program. A new subsection 5337(i) is added to end of the section that establishes procedures to be followed if recipients undertake a fixed guideway modernization project in advance, consistent with current law.

#### SEC. 2020. AUTHORIZATIONS.

This section amends FTA program authorizations under 49 U.S.C. §5338. In subsection (a), apportionments for formula and bus programs are authorized. For each of fiscal years 2013 through 2016, \$8,400,000,000 is available from the Alternative Transportation Account to carry

out metropolitan and State transportation planning (49 U.S.C. §5305), urbanized area formula grants (49 U.S.C. §5307), bus and bus facilities formula grants (49 U.S.C. §5310), rural area formula grants (49 U.S.C. §5311), coordinated access and mobility program formula grants (49 U.S.C. §5317), bus testing (49 U.S.C. §5318) State safety oversight (49 U.S.C. §5330), national transit database activities (49 U.S.C. §5335), and fixed guideway modernization formula grants (49 U.S.C. §5337).

Subsection (b) authorizes \$1,955,000,000 annually for capital investment grants (new start and small start projects) under 49 U.S.C. §5309(m)(2) for fiscal years 2013 through 2016, to be appropriated from the General Fund of the Treasury.

Subsection (c) authorizes \$45,000,000 annually for research, training and outreach, and technical assistance projects under 49 U.S.C. §5312 and §5322 for fiscal years 2013 through 2016, to be appropriated from the General fund of the Treasury.

Subsection (d) authorizes \$98,000,000 annually for FTA administrative expenses under 49 U.S.C. §5326 and §5334 for fiscal years 2013 through 2016, to be appropriated from the General Fund of the Treasury.

Subsection (e) states that activities under this chapter that are financed with amounts made available from the Alternative Transportation Account of the Highway Trust Fund are contractual obligations of the Government, commonly referred to as contract authority. Activities under this chapter financed with amounts appropriated from the General Fund of the Treasury are contractual obligations of the Government only to the extent that amounts are appropriated for such purpose in the annual appropriations process.

#### SEC. 2021. OBLIGATION LIMITS.

This section sets a total annual obligation limitation for amounts made available from the Alternative Transportation Account and amounts from the General Fund of the Treasury not to exceed \$10,498,000,000 for each of fiscal years 2013 through 2016. Not more than \$8,400,000,000 shall be from the Alternative Transportation Account.

#### SEC. 2022. PROGRAM ELIMINATION AND CONSOLIDATION.

This section repeals and amends current-law FTA programs. Repeals or amendments made by this section do not affect funds made available before the effective date of the repeal. The following programs are repealed or amended:

49 U.S.C. §5308, Clean Fuels Discretionary Grant Program, is repealed.

49 U.S.C. §5327(c) and 49 U.S.C. §31138(e)(4) are amended to conform citations within the subsection.

49 U.S.C. §5311(c)(1), Public Transportation on Indian Reservations, is repealed.

49 U.S.C. §5313, Transit Cooperative Research Program, is repealed.

49 U.S.C. §5314, National Research Programs, is repealed.

49 U.S.C. §5315, National Transit Institute, is repealed.

49 U.S.C. §3519, Bicycle Facilities, is amended by striking the last sentence.

49 U.S.C. §5316, Job Access and Reverse Commute Formula Grants, is repealed.

49 U.S.C. §5320, Paul S. Sarbanes Transit in the Parks Program, is repealed.

49 U.S.C. §5323(e)(4), Debt Service Reserve Pilot Program, is repealed.

49 U.S.C. §5328, Project Review, is amended by striking subsection (c), Program of Interrelated Projects.

49 U.S.C. §5339, Alternatives Analysis, is repealed.

49 U.S.C. §5340, Apportionments based on growing States and high density States formula factors, is repealed.

Section 3009 of SAFETEA-LU is amended by striking subsection (i), Contracted Paratransit Pilot program.

Section 3012(b) of SAFETEA-LU, Elderly Individuals and Individuals with Disabilities Pilot Program, is repealed.

Section 3045 of SAFETEA-LU, National Fuel Cell Bus Technology Development Program, is repealed.

Section 3046 of SAFETEA-LU, Allocations for National Research and Technology Programs, is repealed.

Section 3038 of TEA-21, Over-the-Road Bus Accessibility Program, is repealed.

#### SEC. 2023. EVALUATION AND REPORT.

This section requires the Comptroller General to evaluate the progress and effectiveness of FTA's assistance to grant recipients in complying with the prohibition under 49 U.S.C. §5332(b) against discrimination on the basis of race, color, creed, national origin, sex or age under any project, program or activity receiving Federal transit funds. The report shall describe FTA's ability to address discrimination and foster equal opportunities in Federally-funded transit projects and programs, and recommend improvements if necessary.

#### SEC. 2024. TRANSIT BUY AMERICA PROVISIONS.

This section amends 49 U.S.C. §5323(j) by adding two new paragraphs to the Buy America requirements for Federally-funded transit projects. Paragraph (10) applies the Buy America requirements to all contracts for a project that are within the scope of the project's National Environmental Protection Act determination, regardless of whether all elements of the project within such scope involve Federal transit funds. Paragraph (11) sets additional requirements for FTA waivers of transit Buy America requirements, including full notice and comment opportunity and a detailed justification for any waiver that addresses the public comments received. Such justification shall be published before the waiver takes effect.

### **TITLE III: ENVIRONMENTAL STREAMLINING**

The American Energy and Infrastructure Jobs Act of 2012 streamlines the environmental review process in order to speed up project delivery and greatly reduce the time it takes to complete infrastructure projects. The Act refines and expands upon previous streamlining efforts to help deliver infrastructure projects and programs more quickly with better outcomes:

#### **SEC. 3001. AMENDMENTS TO TITLE 23, UNITED STATES CODE.**

This section provides that all repeals or amendments to sections or provisions in Title III of the bill shall be to title 23, United States Code.

#### **SEC. 3002. DECLARATION OF POLICY.**

This section amends 23 U.S.C. §101(b) to make it clear that it is in the national interest to expedite the delivery of surface transportation projects by substantially reducing the average length of the environmental review process.

#### **SEC. 3003. EXEMPTION IN EMERGENCIES.**

This section exempts the reconstruction of a road, highway, or bridge damaged by a declared emergency or disaster from a National Environmental Policy Act (NEPA) and other specified environmental review, approval, licensing, and permit requirements if the reconstruction is in the same location with the same specifications as the facility had before it was damaged.

#### **SEC. 3004. ADVANCE ACQUISITION OF REAL PROPERTY INTERESTS.**

This section amends 23 U.S.C. §108 to permit States to acquire real property interests for a project using their own funds and at their own risk before the completion of NEPA without jeopardizing subsequent approval of the project. The acquisition is eligible for Federal reimbursement once the project is approved. In addition, this section adds a new subsection (d) to allow States to acquire real property interests for a project using Federal funds once a NEPA review is complete for the acquisition. This section also adds a new subsection (e) that

encourages corridor preservation to reduce project costs, project delay, and impacts on the community.

#### SEC. 3005. STANDARDS.

This section amends 23 U.S.C. §109 to allow detailed design prior to NEPA completion at the State's expense for traditional design-bid-build projects. The design work is eligible for Federal reimbursement once the project is approved.

#### SEC. 3006. LETTING OF CONTRACTS.

This section amends 23 U.S.C. §112 to allow detailed design prior to NEPA completion at the State's expense for design-build projects. The design work is eligible for Federal reimbursement once the project is approved. This section also authorizes the use of the construction manager/general contractor method of contracting in the Federal-aid highway program.

#### SEC. 3007. ELIMINATION OF DUPLICATION IN HISTORIC PRESERVATION REQUIREMENTS.

This section amends 23 U.S.C. §138 and 49 U.S.C. §303 to allow approvals and clearances for historic property secured by a transportation project sponsor under section 106 of the National Historic Preservation Act to meet the historic preservation requirements in section 4(f) of the U.S. Department of Transportation Act of 1966.

#### SEC. 3008. FUNDING THRESHOLD.

This section amends 23 U.S.C. §139(b) to set the minimum threshold for Federal funding to trigger environmental reviews under NEPA. Federal funding triggers Federal environmental reviews only where there is a substantial level of Federal involvement. The de minimis threshold is defined in two ways: (1) as a total amount (more than \$10,000,000) and (2) as a percentage of total project costs (16% or more).

#### SEC. 3009. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.

This section further amends 23 U.S.C. §139 to eliminate duplication by providing a single system to review decisions and reduce bureaucratic delay by setting deadlines for the completion of environmental reviews. Section 139, added in SAFETEA-LU, established a new "environmental review process" for all projects for which an EIS is prepared by the USDOT. This process remains vulnerable to delay. This section amends section 139 to further streamline the environmental review process. More specifically, this section amends the following subsections of section 139:

Section 139(b) is amended to permit the Secretary, at the request of the State, to modify the review procedures under section 139 to encourage the use of programmatic approaches and strategies to meet environmental program and permit requirements.

Section 139(c) is amended to strengthen the role of lead agencies in the environmental review process. In cases where approval is required from multiple modal administrations within DOT, the Secretary shall designate a single modal administration as the lead Federal agency.

Section 139(d) is amended to require each participating and cooperating agency to carry out its project review process concurrently, rather than consecutively, with the NEPA process.

Section 139(e) is amended to streamline the project initiation process by eliminating the requirement for the project sponsor to submit a project initiation notice.

Section 139(f) is amended to narrow the range of alternatives to be considered for a project. In addition, this section limits the comments of participating agencies to their area of authority and expertise. This section also prohibits an agency from reevaluating impacts that have been previously evaluated in prior environmental documents. This section promotes effective decision-making by requiring other Federal agencies to accept the purpose and need and range of alternatives as determined by the lead agency if they do not object within a defined comment period.

Section 139(g) is amended to set deadlines for decisions of participating agencies under other environmental laws. If an agency does not meet a deadline, the project is deemed approved by that agency. Additionally, this section adds a new subsection (i) to streamline the process by condensing the final environmental impact statement and combining it with the record of decision.

The new section 139(j) prohibits an agency from requiring a supplemental environmental review once a record of decision or finding of no significant impact is made unless there are changes to the project, new information available or changes in circumstances that would result in new significant impacts that were not previously evaluated. In addition, the Secretary may only require a reevaluation of a document prepared under NEPA if there are substantial changes to the project that would result in new significant impacts that were not previously evaluated. Additionally, the Secretary may not require the record of decision to be changed solely because the project is no longer a priority for funding.

Subsection (m) requires the Secretary to implement this section and establish methodologies and procedures for evaluating impact of transportation projects subject to this section within 1-year of enactment of this Act.

Section 139(n) is amended to require the filing of a claim for judicial review within 90 days of a final action under NEPA.

Finally, this section adds a new subsection (o) to place limitations on judicial review.



#### SEC. 3010. DISPOSAL OF HISTORIC PROPERTIES.

This section amends 23 U.S.C. §156 to allow State DOTs to sell surplus property that is not listed on the Federal Register of Historic Places without having to consider the sale an adverse impact. State DOTs would still have to consider the adverse impact of properties that are listed on the Register; however, properties that are eligible but not actually on the Register would not require the analysis.

#### SEC. 3011. INTEGRATION OF PLANNING AND ENVIRONMENTAL REVIEW.

This section adds a new section 167 to title 23, United States Code that promotes the integration of planning and the environmental review process by allowing environmental decisions made in the planning process to be carried forward into the NEPA process. In addition, this section promotes programmatic approaches by clarifying the authority for programmatic approaches and strategies rather than project-by-project reviews.

#### SEC. 3012. DEVELOPMENT OF PROGRAMMATIC MITIGATION PLANS.

This section adds a new section 168 to title 23, United States Code that improves process efficiency and funding flexibility for early or advanced mitigation and encourages mitigating impacts to natural resources at the program level.

#### SEC. 3013. STATE ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

This section amends 23 U.S.C. §326 to allow the assignment of responsibility for all categorical exclusions to the States. Additionally, it allows the States to assume USDOT responsibilities without reducing the flexibility to use other project delivery methods, such as acquiring real property interests and performing design work prior to the completion of the NEPA process.

#### SEC. 3014. SURFACE TRANSPORTATION PROJECT DELIVERY PROGRAM.

This section amends 23 U.S.C. §327 to make permanent the existing environmental delegation pilot program and allow all States the option to participate. Additionally, it allows the States to assume USDOT responsibilities without reducing the flexibility to use other project delivery methods, such as acquiring real property interests and performing design work prior to the completion of the NEPA process. It clarifies that a State can assume USDOT's responsibility for making conformity determinations under the Clean Air Act, along with all other environmental review responsibilities.

#### SEC. 3015. PROGRAM FOR ELIMINATING DUPLICATION OF ENVIRONMENTAL REVIEWS.

This section adds a new section 331 to title 23, United States Code that eliminates duplication of environmental reviews by allowing States to use State environmental requirements

in the place of Federal requirements as long as the State's environmental requirements meet or exceed Federal requirements.

#### SEC. 3016. STATE PERFORMANCE OF LEGAL SUFFICIENCY REVIEWS.

This section adds a new section 332 to title 23, United States Code that allows a State to self-certify the legal sufficiency of a NEPA document for a federal-aid highway project. Additionally, this provision would allow FHWA in certain circumstances to conduct its own independent legal sufficiency review.

#### SEC. 3017. CATEGORICAL EXCLUSIONS.

This section classifies projects in the right-of-way as categorical exclusions under NEPA.

#### SEC. 3018. ENVIRONMENTAL REVIEW PROCESS DEADLINE.

This section requires the completion of the environmental review process within 270 days after the project initiation notice is published.

#### SEC. 3019. RELOCATION ASSISTANCE.

This section streamlines the relocation process by requiring the Secretary to establish an alternative relocation payment process to allow a lump-sum payment for acquisition and relocation where elected by the displaced occupant. The payment would be based upon just compensation for property acquired and estimated eligible relocation benefits calculated in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. In addition, this section amends the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to update assistance amounts based on inflation.

### **TITLE IV: TRANSPORTATION PLANNING**

#### SEC. 4001. TRANSPORTATION PLANNING.

Subsection (a) inserts a new Chapter 52—Transportation Planning—in title 49 of the United States Code. Chapter 52 consolidates the metropolitan and state planning provisions of titles 23 and 49 to provide a common transportation planning program to be administered by the Federal Highway Administration and the Federal Transit Administration. More specifically section 4001 adds the following sections to Chapter 52 of title 49:

#### ***CHAPTER 52—TRANSPORTATION PLANNING***

##### ***SEC. 5201. POLICY.***

This section combines the policy provisions of 23 U.S.C. §134 and 49 U.S.C. §5303. In addition, the section clarifies that the intent of this new chapter is to provide a common transportation planning program to be administered by the Federal Highway Administration and the Federal Transit Administration.

*SEC. 5202. DEFINITIONS.*

This section combines the definition provisions of 23 U.S.C. §134 and 49 U.S.C. §5303. This section defines regional transportation planning organization.

*SEC. 5203. METROPOLITAN TRANSPORTATION PLANNING.*

This section combines the existing language in 23 U.S.C. §134 and 49 U.S.C. §5303.

*Sec. 5203(a). General Requirements.*

This subsection is amended to ensure that when the plans and transportation improvement programs of a metropolitan area provide for the development and integrated management and operation of transportation systems and facilities, those facilities include intermodal facilities that support intercity transportation, and intercity bus and intercity bus facilities.

*Sec. 5203(b). Designation of Metropolitan Planning Organizations.*

This subsection is amended to change the population threshold for the designation of a metropolitan planning organization from 50,000 to 100,000 individuals. This section also restores language to allow the designation of a metropolitan planning organization to be revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

*Sec. 5203(d). Coordination of Multistate Areas.*

This subsection is amended by repealing the Tahoe Regional Planning Process.

*Sec. 5203(f). Scope of Planning Process.*

This subsection directs metropolitan planning organizations to consider projects and strategies that emphasize intermodal facilities and facilitate regional growth as part of the planning process

*Sec. 5203(g). Development of Long-Range Transportation Plan.*

This subsection is amended to require the metropolitan planning organization in formulating the long-range transportation plan to consider factors, including other relevant data and factors disseminated by the Secretary under the National Strategic Transportation Plan

requirements in section 5205(b). It also directs the metropolitan planning organization to consider the role of intercity buses as part of developing a long-range transportation plan.

*Sec. 5203(h). Metropolitan TIP.*

This subsection is amended to include intermodal facilities that support intercity transportation as a part of the publication of annual listings of projects. In addition, this subsection allows a Governor to modify the transportation improvement program if the State and metropolitan planning organization cannot agree on an Interstate project of statewide significance. This section also directs the metropolitan planning organization to modify the long-range transportation plan to be consistent with the transportation improvement program.

*SEC. 5204. STATEWIDE TRANSPORTATION PLANNING.*

This section combines the language from 23 U.S.C. §135 and 49 U.S.C. §5304.

*Sec. 5204(a). General Requirements.*

This subsection is amended to ensure that when the plans and transportation improvement programs of a State provide for the development and integrated management and operation of transportation systems and facilities, those facilities include intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities.

*Sec. 5204(e). Additional Requirements.*

This section is amended to strengthen the requirement for States to partner with rural local officials or regional transportation planning organizations by requiring cooperation instead of only consideration of their concerns.

*Sec. 5204(f). Statewide Strategic Long-Range Transportation Plan.*

This subsection is amended to list the requirements for a statewide strategic long-range transportation plan, including requiring States to:

- consider data and factors disseminated by the Secretary under the National Strategic Transportation Plan requirements in section 5205(b),
- identify transportation projects that are of statewide, regional, and national importance and estimates of the costs of those projects,
- for States that have an airport with at least 1 percent of all delayed aircraft operations in the United States, include measures to alleviate congestion at that airport,
- for States with rail corridors that are at or exceed capacity, include measures to relieve congestion in its freight rail corridors,
- for States with deep draft ports, take into account projected expansion and increase in shipping traffic at those ports,
- for States with navigable inland waterways, include plans to facilitate transportation using navigable inland waterways,

- in developing plan, ensure interconnectivity between facilities and modes.

This subsection requires the statewide strategic long-range transportation plan to be developed in cooperation with affected local officials of nonmetropolitan areas with responsibility for transportation or, if applicable, through regional transportation planning organizations. This subsection directs the plan to consider the role intercity buses play in reducing congestion, pollution, and energy consumption in a cost-effective manner and the strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

*Sec. 5204(g). Statewide Transportation Improvement Program.*

This subsection is amended to require the State to develop the transportation improvement program in cooperation with local officials of nonmetropolitan areas with responsibility for transportation or, if applicable through regional transportation planning organizations.

*Sec. 5204(k). Designation of Regional Transportation Planning Organizations.*

The bill adds subsection (k) which authorizes a State to establish and designate regional transportation planning organizations in order to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and programs. This section requires the structure of a regional transportation planning organization to be a multi-jurisdictional, voluntary organization of nonmetropolitan local officials. This subsection lays out the minimum requirements for a regional transportation planning organizations including, a policy committee and a fiscal and administrative agent. Additionally, this subsection lists the duties of a regional planning organization. For States that do not establish a regional transportation planning organization, the State is required to consult with local officials to determine projects that may be of regional significance.

**SEC. 5205. NATIONAL STRATEGIC TRANSPORTATION PLAN.**

Section 5205 is added to ensure the Secretary, in consultation with State departments of transportation, develop a national strategic transportation plan.

**SEC. 5206. NATIONAL PERFORMANCE MANAGEMENT SYSTEM.**

Section 5206 requires the Secretary to establish a national performance management system to track the Nation's progress toward broad national performance goals for the Nation's highway and transit systems. The Secretary is directed to establish core performance measures in collaboration with the States, metropolitan planning organizations, and public transportation agencies. States are directed to establish performance targets in their long-range transportation plan.

**SEC. 4002. SPECIAL RULES FOR SMALL METROPOLITAN PLANNING ORGANIZATIONS.**

This section grandfathers in as a metropolitan planning organization those organizations in an urbanized area with a population between 50,000 and 100,000.

#### SEC. 4003. FINANCIAL PLANS.

This section directs the Secretary to revise the planning regulations relating to financial plan requirements.

#### SEC. 4004. PLAN UPDATE.

This section requires States to update their statewide strategic long-range transportation plan to comply with the amended planning requirements.

#### SEC. 4005. STATE PLANNING AND RESEARCH FUNDING FOR TITLE 23.

This section amends 23 U.S.C. §505 to include research activities related to intercity bus systems as an eligible expenditure under the state planning and research program.

#### SEC. 4006. NATIONAL ACADEMY OF SCIENCES STUDY.

This section directs the Secretary to enter into arrangements with the National Academy of Sciences to conduct a study on the implementation of the performance measurement process.

### **TITLE V: HIGHWAY SAFETY**

#### SEC.5001. AMENDMENTS TO TITLE 23, UNITED STATES CODE.

All repeals or amendments to sections or provisions in this title shall be made to title 23, United States Code.

#### SEC.5002. AUTHORIZATION OF APPROPRIATIONS.

This section authorizes appropriations out of the Highway Trust Fund for section 402, section 303 of title 49 and administrative and operating expenses for the National Highway Traffic Safety Administration to carry out chapter 4 of title 23. Amounts made available for chapter 4 of title 23 can only be used to carry out the programs in chapter 4 and cannot be used for construction purposes, unless otherwise provided. Funds made available by this section shall be available for obligation and administered in the same manner as chapter 1 of title 23.

#### SEC. 5003. HIGHWAY SAFETY PROGRAMS.

Subsection (a) amends 23 U.S.C. §402(a). Subsection (a) requires each State to have a highway safety program. Guidelines are established for each State's highway safety program.

The program requires each State to have an effective record system of traffic crash information and requires the State program be applicable to federally administered areas.

Subsection (b) amends 23 U.S.C. §402(b). Subsection (b) changes “national law enforcement mobilizations” to a broader term. New subparagraphs (F), (G) and (H) are added at the end of subsection (b)(1) to incorporate requirements for highway safety data and traffic records systems as part of each State’s highway safety program. Subsection (b)(3) is removed.

Subsection (c) amends 23 U.S.C. §402(c). Subsection (c) changes the apportionment formula to reward States that have primary enforcement safety belt laws, ignition interlock laws, and graduated drivers licensing laws with more apportionment funds. Each State with a highway safety improvement program receives apportioned funds based on population and road mileage. Paragraph (3) establishes minimum apportionment criteria for States, the Secretary of the Interior and the U.S. territories. Paragraph (4) establishes approval criteria for each State’s highway safety program for the Secretary. If a State has more than 0.5 alcohol impaired driving fatalities per 100,000,000 vehicle miles traveled for the most recent 3 year period, that State is required to spend a percentage of their apportionment on projects and activities addressing impaired driving. States are prohibited from using their apportioned funds under this section for any programs involving an automated traffic enforcement system.

Subsection (d) amends 23 U.S.C. §402(d), (e), (f), and (g) by inserting subsection headings in 402(d), (e), (f) and (g). Subsection (k) is repealed.

Subsection (e) adds a new subparagraph (m) that requires States to establish performance targets to be incorporated into each State’s highway safety plan. The performance targets are based on the following set of performance measures: the annual number of traffic fatalities and serious injuries resulting from traffic crashes, the annual number of traffic fatalities and serious injuries involving drivers with a blood alcohol content of .08 or above, the annual number of unrestrained motor vehicle occupant fatalities and the annual number of motorcyclist fatalities. A new subsection (n) is added that establishes the requirements that each State’s highway safety plan must meet. If a state fails to meet their performance targets, they will be required to spend more of their apportionment on projects and activities that address a specific safety area. A new subsection (o) is added that requires the Secretary to submit a report to Congress that evaluates each State’s performance with respect to the performance targets set by each State and any improvements the Secretary may recommend. A new subsection (p) provides definitions for terms used in this section.

#### SEC.5004. USE OF CERTAIN FUNDS MADE AVAILABLE FOR ADMINISTRATIVE EXPENSES.

This section amends 23 U.S.C. §403 by authorizing the Secretary to conduct highway safety research and establish a high visibility enforcement program out of administrative expenses. A minimum amount of the allocation for administrative expenses shall be spent on activities under this section.

#### SEC.5005. REPEAL OF PROGRAMS.

This section repeals the following sections:

23 U.S.C. §405, the Occupant Protection Incentive Grants program

23 U.S.C. §406, Safety Belt Performance Grants program

23 U.S.C. §407, Innovative Project Grants program

23 U.S.C. §408, State Traffic Safety Information System Improvement program

23 U.S.C. §410, Alcohol-Impaired Driving Countermeasures

23 U.S.C. §411, State Highway Safety Data Improvements program

Section 2009 of SAFETEA-LU, High Visibility Enforcement program

Section 2010 of SAFETEA-LU, Motorcyclist Safety program

Section 2011, Child Safety and Child Booster Seat Incentive Grants program

Section 2013 of SAFETEA-LU, Drug-Impaired Driving Enforcement program

Section 2014 of SAFETEA-LU, First Responder Vehicle Safety program

Section 2016 of SAFETEA-LU, Rural State Emergency Medical Services Optimization Pilot program

Section 2017 of SAFETEA-LU, Older Driver Safety; Law Enforcement Training program

**SEC.5006. DISCOVERY AND ADMISSION AS EVIDENCE OF CERTAIN REPORTS AND SURVEYS.**

This section incorporates 23 U.S.C. §402 into 23 U.S.C. §409.

**SEC.5007. PROHIBITION ON FUNDS TO CHECK HELMET USAGE OR CREATE CHECKPOINTS FOR A MOTORCYCLE DRIVER OR PASSENGER.**

This section prohibits the Secretary from awarding grants or providing funding for any programs that check helmet usage or create checkpoints for motorcycle drivers.

**SEC.5008. NATIONAL DRIVER REGISTER.**

This section requires the Secretary to establish and implement procedures to ensure timeliness and accuracy of data submitted by States to the National Driver Register. Also,



requires the Secretary to submit a report to Congress on the timeliness and completeness of data submitted by States into the Nation Driver Register and an analysis of the Department of Transportation's efforts to monitor compliance with reporting requirements.

## **TITLE VI – COMMERCIAL MOTOR VEHICLE SAFETY**

### SEC. 6001. SHORT TITLE.

This section provides that the short title for title VI of the legislation is the “Motor Carrier Safety, Efficiency, and Accountability Act of 2011”.

### SEC. 6002. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

This section provides that all repeals or amendments to sections or provisions in this title are to title 49 of the United States Code.

## **SUBTITLE A – AUTHORIZATION OF APPROPRIATIONS**

### SEC. 6101. MOTOR CARRIER SAFETY GRANTS.

This section amends 49 U.S.C. §31104 to provide funding for motor carriers safety grants and to pay the administrative expenses of the Federal Motor Carrier Safety Administration (FMCSA).

Specifically, subsection (a) provides \$247,000,000 each year for fiscal years 2013 through 2016 from the Highway Trust Fund to provide grants to States under the Motor Carrier Safety Assistance Program (MCSAP) in section 31102.

Subsection (b) continues to allow the Secretary to deduct 1.25 percent or less of the MCSAP funds for administrative expenses to carry out the program. The section continues to require the Secretary to use 75 percent of these funds for the training of non-Federal employees with responsibilities under the program.

Subsection (c) sets the State funding formula for distributing MCSAP funds. The subsection sets a minimum and maximum allocation for States and allocates that each territory will receive \$350,000 annually.

Subsection (d) provides \$244,144,000 each year for fiscal years 2013 through 2016 from the Highway Trust Fund to pay the administrative expenses of the FMCSA. In addition, the subsection an outreach and education program administered by the FMCSA to educate commercial motor vehicle drivers and passenger vehicle drivers how they can operate safely and share the road with each other.

### SEC. 6102. GRANT PROGRAMS.

This section provides \$30,000,000 each year for fiscal years 2013 through 2016 from the Highway Trust Fund to provide grants to States for the Commercial Driver's License Program Implementation under 49 U.S.C. §31313. In addition, this section provides \$30,000,000 each year for fiscal years 2013 through 2016 from the Highway Trust Fund to carry out the Commercial Vehicle Information Systems and Networks (CVISN) deployment program under section 4126 of SAFETEA-LU. This Amounts made available under this section are to remain available until they are expended and are available for obligation either on their date of allocation, or on the first day of the fiscal year, whichever occurs first.

## **SUBTITLE B – REGISTRATION**

### **SEC. 6201. REGISTRATION REQUIREMENTS.**

This section amends 49 U.S.C. §13901 to require the Secretary to provide a distinctive registration number indicating the type of transportation or service to be provided (e.g., motor carrier, freight forwarder, or broker). Subsection (b) adds a new section 13909 to chapter 139 that directs the Secretary to make information relating to registration and financial security publicly available on the Internet.

### **SEC. 6202. MOTOR CARRIER REGISTRATION.**

Subsection (a) amends 49 U.S.C. §13902(a)(1) to add three new requirements for registration as a motor carrier. This section requires motor carriers to demonstrate knowledge through a proficiency exam, of safety, accessibility, and financial responsibility requirements prior to being granted the authority to operate in interstate commerce by the Secretary. In addition, a motor carrier must disclose to the Secretary any relationship between the applicant and another motor carrier and have a valid Department of Transportation number. This subsection requires a motor carrier to register separately as a broker in order to broker transportation services.

Subsection (b) amends 49 U.S.C. §13902(a)(2) to add two new requirements for registration as a household goods motor carrier. In addition, each registrant must undergo a household goods audit. The registrant may submit a corrective action plan that addresses deficiencies if they fail the audit. This section provides that a registration is provisional until the audit is successfully completed and becomes permanent upon passage of the audit or a satisfactory corrective action plan.

### **SEC. 6203. REGISTRATION OF FREIGHT FORWARDERS AND BROKERS.**

Subsection (a) amends 49 U.S.C. §13903 to add to the registration requirements to be a freight forwarder. This subsection sets an experience and training requirement to be a freight forwarder. This subsection requires a freight forwarder to register separately in order to provide transportation as a motor carrier.

Subsection (b) amends 49 U.S.C. §13904 to add to the registration requirements to be a broker. This subsection sets an experience and training requirement to be a broker. This subsection requires a broker to register separately in order to provide transportation as a motor carrier. This subsection requires the Secretary to include the protection of motor carriers in regulations for brokers.

#### SEC. 6204. EFFECTIVE PERIODS OF REGISTRATION.

This section amends 49 U.S.C. §13905(c) to direct the Secretary to require the registration for freight forwarders and brokers to be renewed no later than 4 years after the date of enactment of this Act. In addition this section directs that the registration for freight forwarders and brokers will expire no later than 5 years after the date of renewal, but can be further renewed. This section requires motor carriers, freight forwarders, and brokers to update their registration information within 30 days of any change in essential information.

#### SEC. 6205. REINCARNATED CARRIERS.

This section amends 49 U.S.C. §13905(d) by adding the authority for the Secretary to deny, suspend, amend, or revoke any part of a motor carrier's registration for failure disclose in its application information related to its willingness and ability to comply with an applicable law or regulation or a condition of its registration. In addition this section amends 49 U.S.C. §31135 to prohibit two or more employers from using common ownership, common management, common control, or common familial relationship to avoid compliance with commercial motor vehicle safety regulations. The Secretary is directed to deny, suspend, amend, or revoke all or part of the employer's registration and determine civil penalty amounts. Additionally, this section amends 49 U.S.C. §31106(a)(3) to require the Secretary to develop information systems that can determine whether a motor carrier is or has been related to any other motor carrier through common ownership, management, or familial relationship.

#### SEC. 6206. FINANCIAL SECURITY OF BROKERS AND FREIGHT FORWARDERS.

This section amends 49 U.S.C. §13906 to amend the financial security requirements for brokers and freight forwarders. This section requires financial security in the form and an amount to be adequate to ensure financial responsibility. This section sets the scope of financial responsibility for brokers and freight forwarders to be able to pay any claim arising from the failure to pay freight charges under a contract, agreement, or arrangement for transportation. This section requires a broker or freight forward to provide a minimum financial security of \$100,000, and directs the Secretary to evaluate that amount every five years. The Secretary is directed to suspend registration if the available financial security falls below the minimum amount. This section directs the Inspector General of the Department to review the Secretary's regulations and enforcement practices for financial security requirements.

#### SEC. 6207. REGISTRATION FEE SYSTEM.

This section amends 49 U.S.C. §13908(d)(1) to require registration fees to be as close as possible to covering the costs of processing the registration.

## SEC. 6208. UNLAWFUL BROKERAGE ACTIVITIES.

This section amends chapter 149 by inserting a new section at the end, section 14916. Under this new section, an individual is authorized to provide interstate brokerage services only if they are registered and have satisfied the financial security requirements. Non-vessel-operating common carriers, ocean freight forwarders, customs brokers, and indirect air carriers are exempted from this requirement if they are arranging transportation as part of an international through movement. This section establishes a civil penalty for unauthorized brokering of transportation.

## SEC. 6209. REQUIREMENT FOR REGISTRATION AND USDOT NUMBER.

This section amends subchapter III of chapter 311 by inserting a new section at the end, section 31134. This section authorizes a motor carrier, freight forwarder, or broker to operate commercial motor vehicles in interstate commerce if they have been registered by the Secretary and issued a DOT number. This section requires the Secretary to register a motor carrier if the motor carrier is willing and able to comply with the requirements and has disclosed any relationship to another motor carrier. This section requires the Secretary to revoke or suspend a registration if authority to operate has been revoked or suspended under section 13905 or an employer has willfully failed to comply with requirements for registration. Nothing in this section affects the authority of a State to issue a DOT number.

## **SUBTITLE C – COMMERCIAL MOTOR VEHICLE SAFETY**

### SEC. 6301. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.

This section amends 49 U.S.C. §31102 to make changes to the Motor Carrier Safety Assistance Program (MCSAP).

Subsection (a) directs the Secretary to administer MCSAP in order to assist States with the development and implementation of programs for improving motor carrier safety and the enforcement of Federal regulations, standards, and orders on commercial motor vehicle safety and hazardous materials transportation safety. Currently States are required to submit a plan to the Secretary that acknowledges their agreement to assume responsibility for a variety of issues, including improving safety and adopting Federal regulations, standards, and orders set by the Secretary. This section adds a requirement for States sharing a land border with Canada or Mexico to implement a border commercial motor vehicle safety program and enforcement activities. In addition, this section requires States to maintain their level of spending on these activities at a level that is at least equal to the average of the three years prior to enactment of this Act. This section directs the Secretary provide guidance and standards to aide in helping States reduce commercial motor vehicle crashes. This section directs States to establish performance targets for enforcement activities that will reduce fatalities and crashes and to update those targets annually. This section requires States to report to the Secretary the number and rate of fatalities and crashes involving commercial motor vehicles in the State.

This section directs the Secretary to annually review the plan and assess whether the State is meeting its targets. The Secretary is directed to either approve the plan or disapprove the plan. If the Secretary disapproves the plan, the Secretary is required to provide the State the reason for the disapproval. A State may resubmit a disapproved plan. If a State is not following its plan or the plan has become inadequate, the Secretary may withdraw approval of the plan and withhold grant funds.

A State is eligible for its MCSAP grant allocation if the State has an approved plan. If the State does not have an approved plan, it is eligible for its MCSAP grant allocation at a lower level depending on how long the State has not had an approved plan. Withheld funds will be reallocated among other States in the following fiscal year. States are required to use their grant funds to further the State's plan but may use 5 percent or less for enforcement activities on noncommercial motor vehicles.

#### SEC. 6302. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.

This section amends 49 U.S.C. §31109 to require the Secretary to carry out a performance and registration information systems management (PRISM) program that links Federal motor carrier safety information systems with State registration and licensing systems. The program enables a State to determine the safety fitness of a motor carrier or registrant and deny, suspend, or revoke a registration and seize the registration plates if the motor carrier's operating authority has been revoked. This section requires State participation in the PRISM program and allows States to use commercial vehicle information systems and networks deployment grant funds to meet the PRISM participation requirements.

#### SEC. 6303. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT GRANTS.

This section amends commercial vehicle information systems and networks (CVISN) deployment grant program under section 4126 of SAFETEA-LU. This section allows CVISN grant funds to be used by States to participate in the performance and registration information systems management program. This section eliminates the legislative caps on the amount a State can receive under the CVISN program.

#### SEC. 6304. COMMERCIAL MOTOR VEHICLE SAFETY INSPECTION PROGRAMS.

This section amends 49 U.S.C. §31142(b) to establish an annual vehicle inspection program for motorcoaches.

#### SEC. 6305. AMENDMENTS TO SAFETY FITNESS DETERMINATION.

This section directs the Secretary to consider Safety Recommendation H-99-6 of the National Transportation Safety Board closed once the safety fitness determination methodology is revised.

#### SEC. 6306. NEW ENTRANT CARRIERS.

This section amends section 31144(g)(1) to direct the Secretary to prioritize new entrant safety review of motorcoach companies and hazardous materials carriers by conducting such reviews on an accelerated schedule. This section provides that a motor carrier's registration is not permanent until it passes a new entrant safety review.

#### SEC. 6307. IMPROVED OVERSIGHT OF MOTOR CARRIERS OF PASSENGERS.

This section amends 49 U.S.C. §3144 to require FMCSA to conduct safety fitness determinations of, and assign a safety rating to, each motorcoach company registered with the agency, and ensures regular monitoring of the safety performance of motorcoach companies.

#### SEC. 6308. DRIVER MEDICAL QUALIFICATIONS.

This section amends 49 U.S.C. §31149(c)(1)(D) to develop requirements applicable to medical examiners to be listed in the national registry. Subsection (b) amends section 31149(c)(1) to require additional oversight of licensing authorities. This sections requires an annual review to assess the implementation of commercial driver's license requirements of at least 10 States to assess the accuracy, validity, and timeliness. The Secretary is directed to establish a national registry of medical examiners.

#### SEC. 6309. COMMERCIAL MOTOR VEHICLE SAFETY STANDARDS.

This section directs the Secretary to research the need for potential occupant protection standards for tuck tractors and motorcoaches.

#### SEC. 6310. CRASH AVOIDANCE TECHNOLOGY.

This section requires the Secretary to study and report to the Committee on Transportation and Infrastructure on the effectiveness of crash avoidance technologies to lessen the impact of distracted driving in commercial motor vehicle crashes.

#### SEC. 6311. EXPANSION OF COLLISION MITIGATION STUDY.

This section requires the Secretary to expand an ongoing study and report to the Committee on Transportation and Infrastructure on collision mitigation systems in commercial motor vehicles.

### **SUBTITLE D – COMMERCIAL MOTOR VEHICLE OPERATORS**

#### SEC. 6401. NATIONAL CLEARINGHOUSE FOR RECORDS RELATING TO ALCOHOL AND CONTROLLED SUBSTANCES TESTING OF COMMERCIAL MOTOR VEHICLE OPERATORS.

This section amends chapter 313 by inserting adding a new section 31306a on a national clearinghouse for verified positive alcohol and controlled substance test results and test refusals as well as violations of Federal Motor Carrier Safety Administration (FMCSA) alcohol and controlled substances regulations of commercial motor vehicle operators. This section directs the Secretary to establish and maintain an information system that will serve as the clearinghouse. Employers are prohibited from allowing an individual to operate a commercial motor vehicle until the employer has queried the clearinghouse to ensure an individual is eligible under the testing program to operate a commercial motor vehicle. This section limits the release of clearinghouse information and requires compliance with all applicable federal privacy laws and regulations. This section authorizes the Secretary to collect fees from such employers and other authorized users for informational requests. This section provides for civil and criminal penalties for violations of this provision.

#### SEC. 6402. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.

This section requires the Secretary to issue final regulations establishing minimum training requirements for commercial motor vehicle operators. This section amends 49 U.S.C. §31308(1) to add the requirement that an individual present a certification of completion of training to receive a commercial driver's license.

#### SEC. 6403. COMMERCIAL DRIVER'S LICENSE PROGRAM.

This section amends 49 U.S.C. §31309 to require State commercial driver's license information systems to be able to receive and submit driver conviction and disqualification information.

This section amends 49 U.S.C. §31311 to require a State commercial driver's license (CDL) program to check the drug and alcohol clearinghouse before renewing a CDL. This section requires each State to submit a comprehensive CDL program plan for approval by the Secretary.

This section amends 49 U.S.C. §31313 to make a State eligible for CDL grants if the State has an approved plan. In addition, this section requires States to maintain their level of spending on these activities at a level that is at least equal to the average of the three years prior to enactment of this Act. This section sets the State funding formula for distributing CDL grants and guarantees a State with an approved plan a minimum apportionment of one-half of one percent of the funds available.

#### SEC. 6404. COMMERCIAL DRIVER'S LICENSE PASSENGER ENDORSEMENT REQUIREMENTS.

This section requires the Secretary to review and assess the current knowledge and skill testing requirements for a CDL passenger endorsement to determine whether improvements are necessary. The Secretary is required to send a report on the findings to the Committee on Transportation and Infrastructure.

SEC. 6405. COMMERCIAL DRIVER'S LICENSE HAZARDOUS MATERIALS ENDORSEMENT EXEMPTION.

This section would provide to Class A CDL holders a similar exemption from the hazardous materials endorsement requirement to the existing one given to restricted drivers license holders for hauling up to 1,000 gallons of diesel fuel.

SEC. 6406. PROGRAM TO ASSIST VETERANS TO ACQUIRE COMMERCIAL DRIVER'S LICENSES.

This section directs the Secretary to establish accelerated licensing procedures to help veterans get a CDL.

**SUBTITLE E – MOTOR CARRIER SAFETY**

SEC. 6501. MOTOR CARRIER TRANSPORTATION.

This section provides that certain agricultural exemptions apply interstate.

SEC. 6502. REQUIREMENTS FOR HOURS OF SERVICE.

This section directs the Secretary to complete by March 31, 2013, a field study of the effectiveness of the 34-hour restart rule published on December 27, 2011, that applies to truck drivers. If the results of the study support the 34-hour restart rule, the Secretary is directed to move forward with implementation. If the results of the study do not support the rule, the Secretary is directed to modify the rule through a new rulemaking.

SEC. 6503. ELECTRONIC LOGGING DEVICES.

This section requires performance standards to be included if the Secretary issues regulations regarding electronic logging devices that track compliance with hours of service requirements for commercial motor vehicle drivers. If an electronic logging device is not certified to meet the standards, it is not acceptable as evidence of hours of service and record of duty status requirements. This section also includes additional considerations that include the reduction or elimination to retain supporting documentation associated with paper-based records of duty status if an electronic logging device supplants such documentation. The information contained on an electronic logging device may only be used for enforcement of motor carrier safety.

SEC. 6504. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

This section amends section 4144(d) of SAFETEA-LU to authorize the motor carrier safety advisory committee through September 30, 2017.

SEC. 6505. TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.



This section amends section 229(a)(1) of the Motor Carrier Safety Improvement Act of 1999 to revise exemptions from federal maximum driving and on-duty time motor carrier regulations for drivers transporting agricultural commodities and farm supplies during planting and harvest periods. This section extends the exemptions to drivers transporting agricultural farm supplies: (1) from a wholesale or retail distribution point of the farm supplies to a farm or other location where such supplies are intended to be used within a 150 air-mile radius from the distribution point, or (2) from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point. In addition, the exemption covers drivers transporting agricultural commodities from the source to a location within a 150 air-mile radius from the source.

**SEC. 6506. EXEMPTION RELATING TO TRANSPORTATION OF GRAPES DURING HARVEST PERIODS.**

This section exempts from federal maximum driving and on-duty time motor carrier regulations any drivers transporting grapes in a state if the transportation is: (1) during a harvest period, and (2) limited to an area within a 175 air mile radius from the location where the grapes are picked or distributed.

**SUBTITLE F – MISCELLANEOUS**

**SEC. 6601. EXEMPTIONS FROM REQUIREMENTS FOR CERTAIN FARM VEHICLES.**

This section exempts certain farm vehicles (including the individual operating the vehicle) from certain federal requirements (for a commercial driver's license, drug testing, medical certificates, and hours of service) governing the operation of motor vehicles. This section also prohibits federal transportation funding to a state from being terminated, limited, or otherwise interfered with as a result of the state's exempting a covered farm vehicle (including the individual operating that vehicle, but excluding any farm vehicle transporting hazardous materials requiring a placard) from any state requirements governing the operation of that vehicle.

**SEC. 6602. TECHNICAL CORRECTION.**

This section amends section 306(c)(2)(B) of the SAFETEA-LU Technical Corrections Act of 2008.

**SEC. 6603. STUDY OF IMPACT OF REGULATIONS ON SMALL TRUCKING COMPANIES.**

This section requires the Comptroller General to conduct a study to assess trends in motor carrier safety relating to small trucking companies and independent operators and requires the study to analyze the extent to which safety regulations adversely impact and economically and competitively disadvantage small trucking companies and independent operators.

SEC. 6604. REPORT ON SMALL TRUCKING COMPANIES.

This section requires the Secretary to submit to Congress a report on the efforts of the Department of Transportation to better balance truck competition and efficiency with safety.

SEC. 6605. RULEMAKING ON ROAD VISIBILITY OF AGRICULTURAL EQUIPMENT.

This section requires the Secretary to issue a rule to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road. The rule is required to establish minimum lighting and marking standards for new agricultural equipment manufactured after the effective date of the rule. This rule does not require the retrofitting of agricultural equipment.

SEC. 6606. TRANSPORTATION OF HORSES.

This section amends 49 U.S.C. §80502 to prohibit the transportation of horses in a multi-level trailer and authorizes a civil penalty of between \$100 and \$500 for each violation of this prohibition.

SEC. 6607. REGULATORY REVIEW AND REVISION.

This section requires the Secretary to review and revise the Federal motor carrier safety regulations to simplify the regulations and eliminate requirements that are outmoded or excessively burdensome.

SEC. 6608. ISSUANCE OF SAFETY REGULATIONS.

Directs the Secretary to expedite the issuance of safety regulations to carry out this title of the bill.

SEC. 6609. REPEALS.

This section repeals the following programs and provisions:

Section 31104, High-Priority Program, is repealed.

Section 31107, Border Enforcement Grants, is repealed.

Subsections (c), (d), and (e) of section 4123 of SAFETEA-LU, Commercial Driver's License Information System Modernization, are repealed.

Section 4127 of SAFETEA-LU, Outreach and Education, is repealed.

Section 4128 of SAFETEA-LU, Safety Data Improvement Program, is repealed.

Section 4134 of SAFETEA-LU, Grant Program for Commercial Motor Vehicle Operators, is repealed.

Section 4023 of TEA-21, the report on Motor Carrier Employee Protections, is repealed.

## **TITLE VII: RESEARCH AND EDUCATION**

### SEC. 7001. AUTHORIZATION OF APPROPRIATIONS.

This section authorizes appropriations out of the Alternative Transportation Account of the Highway Trust Fund for 23 U.S.C. §503, §503a, §504, §512, §514, §515, §516 and §517, and 49 U.S.C §5506 and §111 for fiscal years 2013 through 2016.

### SEC. 7002. OBLIGATION CEILING.

All obligations made available from the Alternative Transportation Account for this title shall not exceed \$440,000,000 for each of fiscal years 2013 through 2016.

### SEC. 7003. DEFINITIONS.

This section amends 23 U.S.C. §501 by adding definitions for the terms ‘connected vehicle technology’, ‘incident’, ‘intelligent transportation infrastructure’, ‘intelligent transportation system’, and ‘national architecture’.

### SEC. 7004. SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT AND TECHNOLOGY.

This section amends 23 U.S.C. §502 by changing the section heading to “Surface Transportation Research, Development, and Technology”. Additional subparagraphs are added or amended to align Federal responsibilities and the Secretary’s role in carrying out surface transportation research and education with the programs established in other section under Title V. New subparagraphs (C) and (D) are added to 23 U.S.C. §502(b)(6) to allow States to transfer their allocation under this chapter to other States in order to facilitate mutual research, development, and technology transfer activities.

A new section 502(b)(7) is added that allows the Secretary to initiate prize competitions to stimulate innovation in the area of surface transportation research that is consistent with the Secretary’s research and deployment objectives and activities in section 503.

Subsection (c) is amended by changing the Federal cost share to 80 percent for collaborative research and development carried out by the Secretary.

The following programs are repealed from 23 U.S.C. §502:

- 23 U.S.C. §502(d), Contents of Research Program
- 23 U.S.C. §502(e), Exploratory Advanced Research
- 23 U.S.C. §502(f), Long-Term Pavement Performance Program
- 23 U.S.C. §502(g), Seismic Research
- 23 U.S.C. §502(h), Infrastructure Investment Needs Report
- 23 U.S.C. §502(i), Turner-Fairbank Highway Research Center
- 23 U.S.C. §502(j), Long-Term Bridge Performance Program

#### SEC.7005. RESEARCH AND DEVELOPMENT.

This section amends 23 U.S.C. §503 by requiring the Secretary to carry out a research and development program that is consistent with the strategic plan established under 23 U.S.C. §508. The areas of surface transportation research and development identified are as follows: improving highway safety, improving highway infrastructure integrity, reducing congestion, improving highway operations, enhancing freight productivity, assessing policy and system financing alternatives, and exploratory advanced research. Each research and deployment area has specified objectives and activities relevant to each area.

Subsection (f)(3) requires the Secretary to carry out an Infrastructure Investment Needs Report. Subsection (g) authorizes the Secretary to make grants and enter into cooperative agreements with entities to pay the Federal share of research, development and technology transfer under subsection (b). Subsection (h) requires the Secretary to operate the Turner-Fairbank Highway Research Center to support the Secretary's research agenda. Subsection (i) allows the Secretary to establish Centers for Surface Transportation Excellence.

#### SEC.7006. TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.

This section adds a new 23 U.S.C. §503a which requires the Secretary to establish a technology and innovation deployment program by promoting and facilitating technologies, products, methods or tools resulting from highway research conducted under this chapter.

Subsection (b) outlines the objectives the Secretary shall seek to advance in carrying out the program. Subsection (c) describes the types of activities the Secretary may carry out under the program. Subsection (d) authorizes the Secretary to make grants and enter into cooperative agreements with entities to pay the Federal share of research, development and technology transfer under this section. Subsection (e) requires the Secretary to incorporate research results and products developed under 23 U.S.C. §510, the Future Strategic Highway Research Program.

#### SEC.7007. TRAINING AND EDUCATION.

This section amends 23 U.S.C. §504 by clarifying the duties and courses developed by the National Highway Institute. The Federal cost share for activities carried out by the local technical assistance centers established in section 504(b) is 50 percent and the Federal cost share for tribal technical assistance centers will remain at 100 percent.

Section 504(c) is amended to clarify the eligible expenses for the Dwight David Eisenhower Transportation Fellowship Program.

Section 504(d), the Garrett A. Morgan Technology and Transportation Education Program is repealed.

Section 504(e) is amended by removing 23 U.S.C. §144 from eligible expenses and adding eligible activities under 23 U.S.C. §504(e).

The subsection heading for section 504(f) is amended.

#### SEC. 7008. STATE PLANNING AND RESEARCH.

This section clarifies which programs are required to make planning and research activities available for expenditure.

#### SEC. 7009. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

This section repeals 23 U.S.C. §506, the International Highway Transportation Outreach Program.

#### SEC. 7010. SURFACE TRANSPORTATION-ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.

This section repeals 23 U.S.C. §507, the Surface Transportation-Environmental Cooperative Research Program.

#### SEC. 7011. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.

This section requires the Secretary, acting through the Administrator of the Research and Innovative Technology Administration, to develop a 5-year transportation research and development strategic plan no later than 1 year after the date of enactment of this Act. One of the primary purposes of the plan shall be improving goods movement.

#### SEC. 7012. NATIONAL COOPERATIVE FREIGHT TRANSPORTATION RESEARCH PROGRAM.

This section repeals 23 U.S.C. §509, the National Cooperative Freight Transportation Research Program.

#### SEC. 7013. FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.

This section repeals 23 U.S.C. §510, the Future Strategic Highway Research Program.

SEC. 7014. NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM PLAN.

This section amends the 23 U.S.C. §512 heading. Section 512 is amended by requiring the Secretary to develop a 5-year National Intelligent Transportation Systems program plan not later than 1 year after the date of enactment of this Act.

SEC. 7015. USE OF FUNDS FOR INTELLIGENT TRANSPORTATION SYSTEMS ACTIVITIES.

This section amends the 23 U.S.C. §513 heading. The funds made available under section 7004(a)(4) of this Act shall be subject to the requirements of section 513.

SEC. 7016. INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM GOALS AND PURPOSES.

This section creates a new 23 U.S.C. §514, Intelligent Transportation Systems Program Goals and Purposes, by moving the language found in section 5303 of SAFETEA-LU into the United States Code.

Section 5303 of SAFETEA-LU is repealed.

SEC. 7017. INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM GENERAL AUTHORITIES AND REQUIREMENTS.

This section creates a new 23 U.S.C. §515, Intelligent Transportation Systems Program General Authorities and Requirements, by moving the language found in section 5305 of SAFETEA-LU into the United States Code.

Section 5305 of SAFETEA-LU is repealed.

SEC. 7018. INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH AND DEVELOPMENT.

This section creates a new 23 U.S.C. §516, Intelligent Transportation Systems Research and Development, by moving the language found in section 5306 of SAFETEA-LU into the United States Code.

Section 5306 of SAFETEA-LU is repealed.

SEC. 7019. INTELLIGENT TRANSPORTATION SYSTEMS NATIONAL ARCHITECTURE AND STANDARDS.

This section creates a new 23 U.S.C. §517, Intelligent Transportation Systems National Architecture and Standards, by moving the language found in section 5307 of SAFETEA-LU, except section 5307(a)(4), into the United States Code.

Section 5307 of SAFETEA-LU is repealed.

#### SEC. 7020. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

This section repeals section 5505 of subtitle III of title 49, National University Transportation Centers.

#### SEC. 7021. UNIVERSITY TRANSPORTATION RESEARCH.

This section amends 49 U.S.C. §5506, University Transportation Research. The University Transportation Center program is changed by keeping the competitive structure of the Regional and Tier I centers. Tier I centers are changed to Standard centers and the Tier II centers are repealed. The Secretary is required to complete the competitive process for both Regional and Standards centers no later than 180 days after the date of enactment of this Act. Of the 10 Regional centers, the Secretary is required to establish one of the centers in the field of comprehensive transportation safety and one of the centers in the field of technology for integrated transportation systems operation and performance. The Secretary is required to post any funding opportunities on the Department website. The Secretary is required to work with the National Academy of Sciences on the selection of University Transportation Centers. All selection process evaluation procedures shall be made transparent by the Secretary

#### SEC. 7022. BUREAU OF TRANSPORTATION STATISTICS.

This section amends 49 U.S.C. §111 by changing what statistics the Bureau is required to collect. Subsection (d), the information needs assessment, of section 111 is replaced with a new subsection (d), access to federal data, which gives the Bureau greater authority to collect relevant transportation data from the agencies in the Department of Transportation and other federal agencies, subject to statutory and regulatory restrictions. The reference to the Mass Transit Account in subsection (n) is amended to the Alternative Transportation Account. Subsection (o)(2)(B) is struck.

#### SEC. 7023. ADMINISTRATIVE AUTHORITY.

This section amends 49 U.S.C. §112 by adding a new subsection (f) which allows a percentage of funding for administrative expenses to be used by the Administrator of the Research and Innovative Technology Administration for evaluation and oversight of the programs administered by the Administration.

A new subsection (g) is added which gives the Administrator of the Research and Innovative Technology Administration the authority to collaborate with non-federal entities on research and development activities. Subsection (g) authorizes the Administrator to enter into grants, contracts and cooperative research and development agreements with non-federal entities

on a cost shared basis. The use of technology under any grant, contract or cooperative agreement is subject to the Stevenson-Wydler Technology Innovation Act of 1980.

#### SEC. 7024. TECHNICAL AND CONFORMING AMENDMENTS.

Subsection (a) repeals sections 5308, 5309, 5310, 5501, 5506, 5507, 5511, and 5513 of SAFETEA-LU.

Subsection (b) makes conforming changes to the table of contents in SAFETEA-LU.

Subsection (c) amends section 6010(c) of SAFETEA-LU by striking the reference to subtitle C of title V and inserting 23 U.S.C. §501.

### **TITLE VIII: RAILROADS**

#### **SUBTITLE A – INTERCITY PASSENGER RAIL CAPITAL PROGRAMS**

##### SEC. 8001. CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS.

This section repeals the grant program.

##### SEC. 8002. CONGESTION GRANTS.

This section repeals the grant program.

##### SEC. 8003. INTERCITY PASSENGER RAIL CAPITAL GRANTS TO STATES.

This section makes several edits and amendments to 49 U.S.C. §24402, including:

- eliminating §24402(b) as duplicative;
- amending §22402(c)(1)(D) to require competition for operating contracts for passenger rail service on projects funded under this program authorization;
- eliminating §22402(c)(2)(B)(vi)-(v) as burdensome;
- deleting §22402(g)(3)-(4); and
- amending §22402(h) to require any unobligated amount be used to pay down the federal deficit.

#### **SUBTITLE B – AMTRAK**

##### SEC. 8101. AUTHORIZATION FOR AMTRAK OPERATING EXPENSES.

This section reduces Amtrak operating subsidy authorizations for FYs 2012-2013 by twenty-five percent.

##### SEC. 8102. LIMITATIONS ON AMTRAK AUTHORITY.



Amends 49 U.S.C. §24305 to add subsection (g) that prohibits Amtrak from using federal funds to hire outside counsel to sue another passenger rail service provider or to pursue a lawsuit against a passenger rail service provider arising from a competitive bid process.

#### SEC. 8103. APPLICABILITY OF LAWS.

Section 8013(a) applies certain provisions of Title 18 to Amtrak and the Amtrak Office of Inspector General (Amtrak IG) to ensure that the federal funding Amtrak receives is protected from fraud, waste, and abuse.

Section 8013(b) clarifies that claims and statements made to Amtrak are considered as claims and statements under the False Claims Act to ensure Amtrak IG has the necessary tools to protect the government and taxpayer dollars from fraud.

Section 8013(c) applies these sections to Amtrak only in those years in which Amtrak receives a Federal subsidy.

#### SEC. 8104. INSPECTOR GENERAL OF AMTRAK.

A new provision, 49 U.S.C. § 24317, is added. New subsection 24317(a) grants Amtrak IG the authority to investigate fraud, waste, and abuse. New subsection 24317(b) ensures that Amtrak IG may take advantage of the General Services Administration's programs designed to conserve federal resources, reduce expenses, and increase efficient operations. New subsection 24317(c) extends qualified immunity to Amtrak IG personnel to ensure performance of their statutory duties is not hindered by the threat of litigation and liability.

#### SEC. 8105. AMTRAK MANAGEMENT AND ACCOUNTABILITY.

This section revises 49 U.S.C. §24310 to properly reflect the roles of the DOT IG and the Amtrak IG with respect to reporting on the implementation of PRIIA by DOT and Amtrak, respectively.

#### SEC. 8106. AMTRAK FOOD AND BEVERAGE SERVICE.

This section revises 49 U.S.C. §24305 to add a new subsection that requires the Federal Railroad Administration (FRA) to competitively bid out food and beverage service on Amtrak trains.

#### SEC. 8107. APPLICATION OF BUY AMERICA TO AMTRAK.

This section adds new paragraphs 49 U.S.C. §24305(f)(5)-(6) that apply Buy America provisions to Amtrak for all contracts carried out with federal funds and requires public notice of and justification for any waivers requested for Buy America.

### **SUBTITLE C – PROJECT DEVELOPMENT AND REVIEW**

## SEC. 8301. PROJECT DEVELOPMENT AND REVIEW.

This section adds new chapter 229 to title 49 that will streamline the environmental review process for rail projects.

### *49 U.S.C. §22901 Applicability.*

This section applies the chapter to all freight and passenger rail capital projects that are planned to be carried out with Federal Railroad Administration (FRA) funds. This section also requires the chapter be broadly construed to ensure all ambiguity is resolved in favor of applying the chapter.

### *49 U.S.C. §22902 Definitions*

This section defines terms for the chapter.

### *49 U.S.C. §22903 Efficient environmental reviews for rail project decisionmaking*

Subsection (a) applies to all environmental impact statements (EIS) for projects and any other environmental review if determined appropriate by Secretary. The subsection also allows the authorities to be used for a project, class of projects, or program of projects and allows procedures to be modified for programmatic compliance. It also excludes certain actions from review if below a certain funding threshold.

Subsection (b) establishes the role of the DOT as lead agency and sets out the roles of other federal and non-federal agencies and entities, including project sponsors, in the environmental review process to help streamline coordination of the process. Paragraph (b)(5) requires Federal agencies to use the environmental documents created under this review process to eliminate duplicative environmental reviews.

Subsection (c) requires that the lead agency invite all Federal and non-Federal agencies with an interest in the project to become participating agencies and establishes the process for acceptance by a federal agency invited to be a participating agency. Also allows participating agencies to be deemed cooperating agencies and requires that participating and cooperating agencies carry-out their reviews concurrently.

Subsection (d) requires the project sponsor to notify the lead agency of the type of work, length, and location of the project, and any expected approvals needed.

Subsection (e) requires the lead agency to involve the public as early as possible in defining purpose and need and requires the purpose and need to clearly state the project objectives. Similarly, paragraph (e)(4) requires early determination of the range of alternatives with public involvement. The range of alternatives is restricted under (e)(4)(B)(ii) to not allow reevaluation of any alternative evaluated but not adopted in a Federal or State environmental

document for the rail or transportation plan or in a programmatic or tiered environmental document. Clause (e)(4)(B)(iii) deems the alternatives evaluation legally sufficient.

Subparagraph (e)(4)(C) requires the lead agency to decide the methodologies for evaluating the alternatives with input from participating agencies as part of the scoping process.

Subparagraph (e)(4)(D) allows a preferred alternative to be developed to higher level of detail.

Subparagraph (e)(4)(E) limits re-evaluation of cumulative impacts and growth-inducing impacts if previously studied in prior planning or environmental document. These evaluations are deemed legally sufficient.

Paragraph (e)(5) allows the lead agency to deem that participating agencies concur with the decisions of the lead agency under the subsection, unless the participating agency submits written objections within a specified timeframe.

Paragraph (f)(1) allows for early coordination and scheduling between agencies to ensure the process has a time certain for completion. Paragraph (f)(2) also establishes comment deadlines on the draft EIS and other documents. Paragraph (f)(3) requires participating agencies to make decisions under other laws they administer within a specified timeframe. Failure to make a decision in that timeframe deems the project approved by that agency, but does not subject the agency to judicial review.

Subsection (g) establishes an issue identification and resolution process. Resolutions under the process are not to be re-evaluated and are deemed compliant with applicable laws.

Subsection (h) requires a condensed final environmental impact statement (EIS) and record of decision, where the preferred alternative has not changed from the draft EIS and the Secretary determines the parties involved will implement the measures applicable to the approval.

Subsection (i) restricts when supplemental environmental reviews and reevaluations may occur.

Subsection (j) requires the Secretary to establish a program to measure and report on progress of improving and expediting the planning and environmental review process.

Subsection (k) allows States to request that parts of its funds may be used to aid Federal, State, or tribal agencies in expediting and improving planning and delivery for rail projects.

Subsection (l) requires the Secretary to issue regulations to implement the section and establish methodologies and procedures to evaluate environmental impacts. If the environmental review follows these procedures it is deemed compliant with applicable law.

Paragraph (m)(1) establishes a 90-day statute of limitations on claims arising from the environmental review process. Paragraph (m)(2) clarifies that a supplemental EIS is considered a separate action and establishes a similar 90-day review period.

Subsection (n) establishes venue for relief where the project is located and limits those that may seek relief to individuals with a specific property interest and that have identified their claims in the draft EIS comment period.

#### *49 U.S.C. §22904 Integration of Planning and Environmental Review*

Subsection (a) allows the lead agency to adopt planning products into the environmental review at the scoping stage.

Subsection (b) identifies the types of planning decisions allowed to be adopted, including the purpose and needs or goals and objectives statement; decisions regarding project location; decisions regarding alternatives for study or elimination; description of the environmental settings; decision on methodologies for analysis; and decisions on programmatic mitigation. Also, this section allows for certain analyses to be used from planning documents.

Subsection (c) identifies the conditions for use of a planning document, including that the plan was developed per federal law, the planning process contained broad consideration of needs and effects, the planning process gave notice to the public and agencies, documents related to the planning were made available to the public and agencies pre-scoping, no new information or circumstance has arisen to effect the product, based on reliable data and good methodologies, it is sufficiently documented, and the product is appropriate for use in an environmental review.

Subsection (d) clarifies that if the document is adopted it will not be subject to reconsideration or additional consultation unless the lead agency determines there is new information or circumstances warranting. It also allows other agencies to rely on the planning product in their reviews.

Subsection (e) clarifies that the section is not to be construed to make environmental laws applicable to the development of planning products.

#### *49 U.S.C. §22905 Eliminating Duplicative Environmental Reviews*

Subsection (a) establishes a program to allow State environmental laws to be used for projects in lieu of federal environmental laws.

Subsection (b) allows State to participate through application. The application must give an explanation of the alternative environmental review of the state, how those laws are substantially equivalent to federal law, and evidence of having sought public comments on the application.

Subsection (c) requires the Secretary to review and decide on the application within 90 days and give the State written reasons for the decision.

Subsections (d) require the Secretary to approve the application if the laws are found to be substantially equivalent to Federal laws.

Once approved, subsection (e) states that compliance with State permits are deemed to be compliant with Federal laws.

Subsection (g) requires an annual report to Congress describing the administration of the program.

*49 U.S.C. §22906 Railroad Corridor Preservation*

This section allows entities to acquire rights of way and adjacent property prior to completion of environmental review. It would, however, not allow development of the property until final approval of the project and environmental reviews.

*49 U.S.C. §22907 Treatment of Railroads for Historic Preservation*

This section precludes entire railroads or portions thereof from being designated as historic sites, but allows an exception for depots and bridges, or other significant structures as determined by the Secretary.

*49 U.S.C. §22908 Categorical Exclusions*

Subsection (a) requires that certain types of projects be categorically excluded from extensive NEPA review, including maintenance and replacement of tracks, bridges, structures, stations, communications, etc.; rail line additions in a right-of-way; projects related to positive train control; and replacement, reconstruction, and rehabilitation of existing bridges, as long as it does not require acquisition of significant new right-of-way.

Subsection (b) allows the Secretary to categorically exclude a project if the project would fit within a categorical exclusion but for an additional action, if that additional action is properly studied.

Subsection (c) authorizes the Federal Railroad Administration (FRA) to use other administrations' categorical exclusions to the extent they may be applicable to the project before FRA.

*49 U.S.C. §22909. State assumption of responsibility for categorical exclusions*

This section allows the Secretary to delegate to the States, at the Secretary's discretion, the authority to determine if certain activities are within classes of action that are categorically excluded from environmental reviews.

Subsection (b) allows the Secretary to also assign to the State, the Secretary's role under other laws that it would otherwise have to undertake for categorical exclusions. If the State assumes such role, it is solely responsible and liable for the carrying out that law.

Paragraphs (c)(1)-(2) require the State and Secretary, after notice and comment, to enter into a 3-year, renewable, memorandum of understanding to carry out the section.

Paragraph (c)(3) requires that the State accept Federal court jurisdiction for enforcement of the State's responsibilities.

Paragraph (c)(4) requires that the Secretary monitor the State's compliance, including financial ability of the State to carry out the program.

Subsection (d) allows the Secretary to terminate the memorandum of understanding if the State is not carrying out its responsibilities.

Subsection (e) clarifies that the State agency is deemed a federal agency for the purposes of the federal laws being carried out.

*49 U.S.C. §22910. Rail project delivery program*

Subsection (a) allows the Secretary to develop a program to delegate to the States, upon the Secretary's approval, the authority to conduct the environmental review required for a project, class of projects, or program of projects or any authority under other Federal environmental laws to the same extent required of the Secretary.

Subsection (b) requires regulations to establish the program and application requirements, including that applications contain the project or class of projects for which the State plans to exercise the authority, verification the State has the financial resources, and evidence on the State obtaining notice and comment on its applications.

Paragraph (b)(3) requires each State to give notice and public comment of its intent to apply for the program.

Paragraph (b)(4) requires approval of an application if the regulatory requirements are met, the State has the capability to assume the responsibility, and the head of the state agency enters an agreement with the Secretary.

Paragraph (b)(5) allows the Secretary to solicit comments of certain other Federal agencies if applicable.

Subsection (c) outlines the requirements of the written agreement between the State and Secretary including, that the agreement be for a 5-year, renewable term, the State agrees to Federal court jurisdiction, the State agrees to assume all or part of the responsibilities of the Secretary, the State has sufficient public notice laws, and will maintain sufficient financial responsibility.

Subsection (d) establishes legal jurisdiction for review in federal courts and applies the same legal standards and requirements to the State as would be applied to the Secretary.

Subsection (e) clarifies that the State is solely liable and responsible for carrying out responsibilities assumed.

Subsection (f) ensures the Secretary may not assign a State rulemaking authority.

Subsections (g)-(h) require the Secretary to audit and monitor compliance by the State.

Subsection (i) requires annual report to Congress on the program.

Subsection (j) allows the Secretary to terminate a State's participation after notice to the State and an opportunity to take corrective action.

*49 U.S.C. §22911. Exemption in emergencies*

This section exempts from environmental reviews the reconstruction of a railroad, track, bridge, or other facility damaged in an emergency.

**SUBTITLE D – RAILROAD REHABILITATION AND IMPROVEMENT FINANCING**

**SEC. 8301. RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.**

Subsection (a) of this section sets forth the purpose of the section which is to encourage more participation in Railroad Rehabilitation and Improvement Financing (RRIF) program. It also requires the Secretary to issue regulations to carry-out the amendments made by the section.

Subsection (b) makes high-speed rail facilities eligible for RRIF loans.

Subsection (c) allows private insurance, including bond insurance, to cover loan costs.

Subsection (d) allows the credit risk premium to be financed over the term of the loan.

Subsection (e) ensures the full value of the asset offered as collateral is credited and allows the Secretary to subordinate his/her rights under other provisions of to the rights of the Secretary under this section and section 503.

Subsection (f) is amended to ensure that the time limit for approval of the loan includes any review required by the Office of Management and Budget.

Subsection (g) adds a new paragraph to §502(i) requiring the Secretary to establish procedures to for a 45-day time limit on determining whether a new RRIF loan application is complete, and that the procedures include what constitutes a complete application, provide for an

independent financial analyst review, a description of what is incomplete or unsatisfactory, and permit reapplication without prejudice.

Subsection (i) provides that RRIF loans for positive train control systems are automatically in the public interest and requires the Secretary to accept the entire cost of the PTC system as collateral.

Subsection (j) adds a new §502(k) requiring an annual report to Congress summarizing RRIF loan activity over the past year, the report shall include number of pre-application meetings, number of applications received and determined complete, dates of receipt, dates applications deemed complete, number of applications deemed incomplete, final decisions on approval/disapproval, number of applications withdrawn, and annual loan portfolio asset quality.

## **SUBTITLE E – POSITIVE TRAIN CONTROL**

### **SEC. 8401. POSITIVE TRAIN CONTROL.**

Subsection (a) clarifies that except as required by Section 20157 (relating to the requirements for implementation of positive train control systems), nothing in this section shall be construed as requiring the installation of positive train control on railroad tracks if positive train control is not required on those tracks by section 20157 and positive train control on those tracks is not chosen by the railroad as a technology to be implemented under this section.

Subsection (b) amends 49 U.S.C §20157. Paragraph (b)(1) changes the Positive Train Control implementation date to December 31, 2020, clarifies that 2020 shall be the baseline year, and eliminates the Secretary's authority to require Positive Train Control implementation on track not identified in statute.

Paragraph (b)(2) allows railroad carriers, in lieu of installing positive train control, to utilize an alternative risk reduction strategy on lines carrying poison- or toxic-by-inhalation hazardous materials, but not on lines carrying passenger trains.

Paragraph (b)(3) allows a railroad carrier to revise an implementation plan as necessary to reflect rail lines that are added or removed, or to reflect the use of alternative risk reduction strategies.

Paragraph (b)(4) pushes back the date for the Secretary's report to Congress on the progress of PTC implementation, requires the report include recommendations for improving PTC implementation or alternative risk reduction strategies.

## **SUBTITLE F – REGULATORY REFORM**

### **SEC. 8501. FEDERAL RAILROAD ADMINISTRATION REGULATIONS.**



Subsection (a) amends 49 U.S.C §103 by adding a new paragraph, 49 USC §103(l), which provides that before any final regulation is issued, the Administrator shall consider certain factors. Included among those factors are the governing legal authority; the nature and significance of the problem; whether existing rules have created or contributed to the problem and changes to those rules; the best reasonably obtainable scientific, technical, and other information; the potential costs and benefits; means to increase the cost-effectiveness; incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility; and any reasonable alternatives. The paragraph also requires the Administrator to solicit and take into consideration public comment on these subjects and to follow applicable rulemaking procedures.

Subsection (b) ensures this change is only effective with respect to regulations where no notice of proposed rulemaking has been issued.

## **SUBTITLE G – TECHNICAL CORRECTIONS**

### **SEC. 8601. MISCELLANEOUS CORRECTIONS, REVISIONS, AND REPEALS.**

Subsection (a) makes technical corrections to provisions of the United States Code enacted in, or amended by, the Rail Safety Improvement Act of 2008, including minor corrections for technical reasons to clarify the meaning of the provisions, such as substitution defined statutory terms for undefined terms; to replace colloquial language with more formal language; to correct an error of spelling; capitalization, punctuation, or diction; or to eliminate an ambiguity or internal inconsistency.

Subsection (b) makes technical corrections to the Rail Safety Improvement Act of 2008, including minor corrections for technical reasons to clarify the meaning of the provisions, such as substitution defined statutory terms for undefined terms; to replace colloquial language with more formal language; to correct an error of spelling; capitalization, punctuation, or diction; or to eliminate an ambiguity or internal inconsistency.

Subsection (c) makes technical corrections to provisions of the United States Code enacted in, or amended by, the Passenger Rail Investment and Improvement Act of 2008 (PRIIA).

Subsection (c) makes technical improvements to the Section 214 Alternate Passenger Rail Service Pilot to allow for a 5-year, renewable operations period and to allow the Secretary of Transportation to provide directly to a winning bidder any portion of appropriations for Amtrak necessary to cover the operating subsidy described in subsection (a)(5)(B).

Subsection (c) also amends certain grant selection criteria to require competition and removes certain competitive grant selection criteria placing unnecessary requirements on carriers and granting the Secretary overly broad discretion.

Subsection (d) amends Section 209(c) of PRIIA requiring implementation of the new cost-allocation methodology for state-supported Amtrak routes, to align the cost-allocation methodology implementation with State budget processes.

## **SUBTITLE H – MISCELLANEOUS**

### **SEC. 8701. APPLICATION OF BUY AMERICA TO INTERCITY PASSENGER RAIL SERVICE CORRIDORS.**

This section adds new paragraphs 49 U.S.C. §24405(a)(11)-(15) that apply Buy America provisions to all contracts carried out with federal funds and requires public notice of any waivers requested for Buy America.

### **SEC. 8702. PROHIBITION ON USE OF FUNDS FOR CALIFORNIA HIGH-SPEED RAIL.**

This section prohibits any funds in the Act from being used for high-speed rail projects in California.

### **SEC. 8703. DISADVANTAGED BUSINESS ENTERPRISES.**

Subsection (a) requires that at least 10 percent of capital grant program funds under FRA's jurisdiction be expended through small businesses owned by socially and economically disadvantaged individuals.

Subsection (b) defines terms for the section.

Subsection (c) allows disadvantaged businesses to still be eligible to receive funds if the disadvantaged business enterprises (DBE) program is deemed unconstitutional and is consistent with the savings clause currently in the Federal highways and Federal transit DBE programs.

Subsection (d) requires the program be implemented in accord with the Federal highways and Federal transit DBE programs.

## **TITLE IX: HAZARDOUS MATERIALS TRANSPORTATION**

### **SEC. 9001. SHORT TITLE AND TABLE OF CONTENTS.**

This section provides the short title and table of contents for Title IX of the bill.

### **SEC. 9002. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

This section provides that all repeals or amendments to sections or provisions in Title IX of the bill shall be to title 49, United States Code.

#### SEC. 9003. FINDINGS.

This section makes certain findings regarding the transportation of hazardous materials.

#### SEC. 9004. PURPOSES.

This section amends Section 49 U.S.C. § 5101 to remove language that negatively implies the transportation of hazardous materials is dangerous.

#### SEC. 9005. DEFINITIONS.

The definition of a “hazmat employer” in section 49 U.S.C. § 5102(4) is amended to delete the term “uses” to eliminate duplicative training requirements.

Section 49 U.S.C. § 5102(13) is amended to revise the definition of “transports” and “transportation” to identify that loading, unloading, handling, and storage is within the jurisdiction of the Pipelines and Hazardous Materials Safety Administration’s (PHMSA) regulatory authority.

#### SEC. 9006. GENERAL REGULATORY AUTHORITY.

This section adds 49 U.S.C. § 5103(b)(1)(A)(vii) to clarify that PHMSA’s regulations apply to those persons providing hazmat emergency response information services.

A new subparagraph, 49 U.S.C. § 5103(b)(1)(C), is added to require that procedures and criteria for fitness determinations in applications for approvals and special permits must be developed through notice and comment rulemaking.

A new paragraph, 49 U.S.C. § 5103(b)(3), is added which provides that before any final regulation is issued, the Administrator shall consider the governing legal authority; the nature and significance of the problem; whether existing rules have created or contributed to the problem and changes to those rules; the best reasonably obtainable scientific, technical, and other information; the potential costs and benefits; means to increase the cost-effectiveness; incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility; and any reasonable alternatives. The paragraph also requires the Administrator to solicit and take into consideration public comment on these subjects and to follow applicable rulemaking procedures. The new paragraph is only effective with respect to regulations where no notice of proposed rulemaking has been issued.

A new paragraph, 49 U.S.C. § 5103(b)(6), is added to require that PHMSA, when incorporating standards by reference into the regulations, consider the costs of the publication, broadness of its application, and alternatives to incorporation of the standards, then adopt the option that meets safety objectives in most cost-effective manner.

#### SEC. 9007. INSPECTIONS OF MOTOR VEHICLES TRANSPORTING RADIOACTIVE MATERIAL.

This section amends 49 U.S.C. §5105(d) to create uniformity among States regarding the inspection of interstate movements of certain radioactive materials. Once inspected, States would be allowed to re-inspect these materials where an en route change has occurred.

#### SEC. 9008. HAZMAT EMPLOYEE TRAINING REQUIREMENTS AND GRANTS.

Section 49 U.S.C. § 5107 is amended to eliminate a narrowly defined designation of an eligible recipient of grant funds for hazmat employee “train-the-trainer” grants.

Section 49 U.S.C. § 5107(f) is amended to remove overlapping federal regulatory jurisdiction regarding regulating the handling of hazmats.

#### SEC. 9009. FEES.

Section 49 U.S.C. § 5108 is amended to eliminate the minimum registration fee. A

new subparagraph, 49 U.S.C. 5108(g)(2)(D) is added to ensure that no new fee authority or enhanced fees are levied on special permit and/or approval applicants.

#### SEC. 9010. MOTOR CARRIER SAFETY PERMITS.

Section 49 U.S.C. § 5109 is amended to reflect appropriate DOT nomenclature for explosives in paragraph (b)(1) and “offerors” in subsection (f).

Section 9010 requires a review and report for the Federal Motor Carrier Safety Administration’s motor carrier safety permit program.

#### SEC. 9011. PLANNING AND TRAINING GRANTS, MONITORING, AND REVIEW.

This section makes amendments to 49 U.S.C. § 5116 to increase the flexibility of how the Secretary allocates grant money for States between planning and training grants. These amendments also require recipients to certify that their fees are fair and properly reported, and require that PHMSA report on both types of grants.

This section also amends 49 U.S.C. § 5116(j) to make the supplemental training grants program more generally applicable.

#### SEC. 9012. SPECIAL PERMITS AND EXCLUSIONS.

Section 49 U.S.C. § 5117 is amended to ensure: (1) that the procedures and criteria for applying for special permits are established through notice and comment rulemaking; and (2) that special permits are incorporated into the regulations once they are proven to be safe. This amended section allows the agency 3 years to incorporate all outstanding special permits that are

6 years or older and meet certain requirements. This section also does not allow a special permit to be denied solely because an applicant's hazmat out of service percentage is greater than the national average.

#### SEC. 9013. HAZARDOUS MATERIAL UNIFORM MOTOR CARRIER PERMIT PROGRAM.

Section 49 U.S.C. § 5119 amended to make the uniform program mandatory for the States by only allowing the States to enforce registration and permitting that conforms to this uniform program. It leaves in place the right of States to charge fees for registration and permitting.

#### SEC. 9014. INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.

This section amends 49 U.S.C. § 5120 to ensure that PHMSA is the agency representing the nation on international forums regarding the transportation of hazardous materials in international commerce.

#### SEC. 9015. INVESTIGATIONS.

This section amends 49 U.S.C. § 5121 to ensure that PHMSA's authority to open and inspect packages applies only to undeclared packages, that the inspection occur in an appropriate facility, and that notice be given to the offeror and carrier of such inspection. This section also requires a rulemaking on this authority.

#### SEC. 9016. BUILDING PARTNERSHIPS FOR IMPROVED SAFETY AND SYSTEM PERFORMANCE.

This section adds a new paragraph, 49 U.S.C. § 5121(g)(4), to allow PHMSA to make grants and cooperative agreements to provide consistent training on enforcement among the states.

#### SEC. 9017. SAFETY REPORTING.

This section amends 49 U.S.C. § 5121(h) to require that the biennial report on transportation of hazmats include all modes set forth by type and quantity, a basis for all special permits issued, and the activities of undeclared package inspections and emergency orders.

#### SEC. 9018. CIVIL PENALTIES.

This section deletes the minimum civil penalties for violations in 49 U.S.C. § 5123(a).

A new paragraph, 49 U.S.C. § 5123 (a)(4), is added to ensure carriers are not cited for violations over which the carriers had no control.

This section also adds new subsection 49 U.S.C. § 5123(h) which enhances safety by imposing penalties for failing to maintain records, reports, and information.

#### SEC. 9019. PREEMPTION.

A new paragraph, 49 U.S.C. § 5125(a)(3), is added to allow PHMSA to make the determination that a particular local law creates an unreasonable burden on commerce.

This section strikes “written” from U.S.C. § 5125 (b)(1)(D) to make all notification regarding unintentional releases of hazmats uniform among the States and localities through which hazmats are transported.

This section amends 49 U.S.C. § 5125(c)(1) to require all hazmat routes either be registered on the Department’s route registry or be deemed unenforceable by the States.

This section requires the reporting on fee usage in 49 U.S.C. § 5125(f)(2) be on a biennial basis rather than at the Secretary’s discretion to enhance transparency.

Section 9019 also requires uniform enforcement standards, such as standards for procedure, penalty, and mental state, among the States.

#### SEC. 9020. AUTHORIZATION OF APPROPRIATIONS.

This section amends 49 U.S.C. § 5128 to freeze authorized funding levels at \$39M (FY 2011 levels) for five years.

This section also amends 49 U.S.C. § 5128(b) to make the hazardous materials emergency preparedness grant program more flexible by granting the Secretary the discretion to allocate funds between training and planning. This section also makes a conforming amendment to eliminate the funding for the grants under section 9008.

A new subsection, 49 U.S.C. § 5128(e), is added to authorize funds for the implementation by States of the uniform forms and procedures under 49 U.S.C. § 5119.

#### SEC. 9021. ELECTRONIC SHIPPING PAPERS PILOT PROGRAM.

This section establishes a pilot program to determine whether electronic shipping papers would be cost effective for the trucking industry, and requires at least one pilot program to be in a rural area.

#### SEC. 9022. WETLINES STUDY.

This section requires a study on wetlines to identify whether regulation is cost efficient, while prohibiting final rules on the matter.

#### SEC. 9023. PRODUCT STUDY.

This section requires a study on whether certain common household products containing ethyl alcohol need be regulated as hazmats.

## **TITLE X – WATERBORNE TRANSPORTATION**

SEC. 10001. SENSE OF CONGRESS ON HARBOR MAINTENANCE.

This section establishes a Sense of Congress that the funds collected by the Harbor Maintenance Tax be utilized for their intended purpose. The Harbor Maintenance Trust Fund provides funds for the United States Army Corps of Engineers to carry out the dredging of navigation channels to their authorized depths and widths.

## **Title XI – Reauthorization and Amendments to the Sport Fish Restoration and Boating Trust Fund**

SEC. 11001. SHORT TITLE.

This establishes the short title for Title XI as the “Sportfishing and Recreational Boating Safety Act of 2012”.

SEC. 11002. REAUTHORIZATION AND AMENDMENTS TO THE SPORT FISH RESORATION AND BOATING TRUST FUND.

This section reauthorizes the Dingell/Johnson Sport Fish Restoration Act through fiscal year 2016. It reduces Coast Guard administrative expenses and reallocates funding to the Coast Guard’s Recreational Boating Safety Program and Recreational Boating Safety Grants available to the states.

Title XI does not affect the Act’s sport fish restoration programs, nor does it make changes to the Act’s formulas or financing mechanisms.

## **TITLE XII – EXTENSION OF SURFACE TRANSPORTATION PROGRAMS**

SEC. 12001. SHORT TITLE; EFFECTIVE DATE.

This title may be cited as the “Surface Transportation Extension Act of 2012”.

The amendments made by this title take effect on April 1, 2012.

## **SUBTITLE A – FEDERAL-AID HIGHWAYS**

### **SEC. 12101. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.**

This section extends the Federal-aid highway programs through fiscal year 2012.

## **SUBTITLE B – EXTENSION OF HIGHWAY SAFETY PROGRAMS**

### **SEC. 12201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HIGHWAY SAFETY PROGRAMS.**

This section extends the National Highway Traffic Safety Administration Highway Safety programs through fiscal year 2012.

### **SEC. 12202. EXTENSION OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAMS.**

This section extends the Federal Motor Carrier Safety Administration programs through fiscal year 2012.

### **SEC. 12203. ADDITIONAL PROGRAMS.**

This section extends hazmat research projects and the Dingell-Johnson Sport Fish Restoration Act through fiscal year 2012.

## **SUBTITLE C – PUBLIC TRANSPORTATION PROGRAMS**

### **SEC. 12301. ALLOCATION OF FUNDS FOR PLANNING PROGRAMS.**

This section extends funding for public transportation planning programs through fiscal year 2012.

### **SEC. 12302. SPECIAL RULE FOR URBANIZED AREA FORMULA GRANTS.**

This section extends the special rule for urbanized area formula grants through fiscal year 2012.

### **SEC. 12303. ALLOCATING AMOUNTS FOR CAPITAL INVESTMENT GRANTS.**

This section extends capital investment grants through fiscal year 2012. SEC.

### **12304. APPORTIONMENT OF FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.**

This section extends the apportionment of formula grants for other than urbanized areas through fiscal year 2012.



SEC. 12305. APPORTIONMENT BASED ON FIXED GUIDEWAY FACTORS.

This section strikes subsection (g) from 49 U.S.C. §5337.

SEC. 12306. AUTHORIZATIONS FOR PUBLIC TRANSPORTATION.

This section extends authorizations for public transportation through fiscal year 2012.

SEC. 12307. AMENDMENTS TO SAFETEA-LU.

This section extends the amendments to SAFETEA-LU through fiscal year 2012.

**TITLE XIII – ADDITIONAL TRANSPORTATION PROVISIONS**

SEC. 13001. BUDGET RULE RELATING TO TRANSFERS FROM THE GENERAL FUND OF THE TREASURY TO THE HIGHWAY TRUST FUND THAT INCREASE PUBLIC INDEBTEDNESS.

This section would require that all future transfers from the general fund of the Treasury to the Highway Trust Fund be fully offset in both budget authority and outlays. Under current scorekeeping procedures transfers from the General Fund to the Highway Trust Fund are not scored as having a cost. The Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) currently view the transfers from the General Fund to the Highway Trust Fund as intragovernmental transfers which does not properly account for the budgetary effects associated with those transfers.

SEC. 13002. AUDIT OF UNION STATION REDEVELOPMENT CORPORATION.

This section directs the Inspector general of the Department of Transportation to audit the Union Station Redevelopment Corporation once every two years.

SEC. 13003. PROHIBITION ON USE OF FUNDS.

This section prohibits funds made available in this Act from being used for signage indicating the project was funded under this Act.

## **TITLE XIV – KEYSTONE XL PIPELINE**

### SEC. 14001. SHORT TITLE.

This section provides the short title for Title XIV, the “North American Energy Access Act.”

### Sec. 14002. RESTRICTION.

This section provides that no person may construct, operate, or maintain the oil pipeline described in the FEIS, except with a permit issued under the Act.

### Sec. 14003. PERMIT.

*Issuance of Permit.* Subsection 3(a) provides that FERC is required to issue a permit for the construction of the pipeline if the application is for the pipeline described in the FEIS. FERC is required to issue a permit for the pipeline within 30 days of receiving an application. If FERC fails to act on the application within 30 days of receipt, the permit shall be deemed issued upon expiration of the 30 days.

*Modifications Generally.* Subsection 3(b)(1) provides that the applicant may make a substantial modification to the pipeline only with the approval of FERC.

*Nebraska Modification.* Subsection 3(b)(2) provides that FERC must enter into a memorandum of understanding with the State of Nebraska to complete a review, pursuant to the National Environmental Policy Act of 1969 (NEPA), of any modification to the proposed pipeline route in Nebraska. FERC is required to approve the modification within 30 days after receiving approval of the proposed modification from the Governor of Nebraska. The modification shall be deemed approved if FERC fails to act within 30 days of receiving the application for modification.

*No Further Action Under NEPA Required.* Subsection 3(c) provides that, except for actions under (b)(1), additional action under the National Environmental Policy Act of 1969 (NEPA) is not needed.

### SEC. 14004. RELATION TO OTHER LAW.

This section provides that no presidential permits are required for the construction of the Keystone XL Pipeline Project. This section also deems the final environmental impact statement to satisfy NEPA.

## **Title XV – American Energy and Infrastructure Jobs Financing**

### SEC. 15001. SHORT TITLE.

This section provides the short title for Title XV, the “American Energy and Infrastructure Jobs Financing Act of 2012.”

SEC. 15002. EXTENSION OF TRUST FUND EXPENDITURE AUTHORITY.

This section reauthorizes the existing Highway Trust Fund (HTF) expenditure authority through September 30, 2016.

SEC. 15003. EXTENSION OF HIGHWAY-RELATED TAXES.

This section extends the excise taxes that support the HTF through September 30, 2018 at their current rates. Consistent with prior practice for highway reauthorization bills, the excise taxes would be extended for a period beyond the reauthorization of expenditure authority to facilitate tax administration and avoid potential disruption in the event of a lapse in the expenditure authority at the end of the reauthorization period.

SEC. 15004. REVENUES FROM CERTAIN DOMESTIC ENERGY LEASES APPROPRIATED TO HIGHWAY TRUST FUND.

This section provides for new revenues generated from expanded onshore and offshore domestic energy leasing and production to be deposited into the Highway Account of the HTF. The expanded energy leasing and production would occur pursuant to Title XVII.

SEC. 15005. ALTERNATIVE TRANSPORTATION ACCOUNT.

This section terminates the transfer of motor fuel excise tax revenues into the Mass Transit Account of the HTF. Instead, Section 15005 would provide for a one-time transfer and deposit of \$40 billion from the General Fund into the Mass Transit Account. This amount would correspond to the amount of increased non-tax revenues generated from Title XVI. This section also would rename the Mass Transit Account, the “Alternative Transportation Account”.

**TITLE XVI – FEDERAL EMPLOYEE RETIREMENT**

SEC. 16001. SHORT TITLE.

The section provides the short title for Title XVI, the “Securing Annuities for Federal Employees Act of 2012.”

SEC. 16002. RETIREMENT CONTRIBUTIONS.

Section (2)(a) increases the employee contribution to the Civil Service Retirement System (CSRS) by 1.5 percent of salary over three years, beginning in calendar year 2013. The employer contribution is reduced by the increased employee contribution.

Section (2)(b) increases the employee contribution to the Federal Employee Retirement System (FERS) by 1.5 percent of salary over three years, beginning in calendar year 2013. Under

existing law, the employer contribution equals the normal retirement cost reduced by the employee contribution.

#### SEC. 16003. AMENDMENTS RELATING TO SECURE ANNUITY EMPLOYEES.

Section 3(a) establishes a new pension formula for federal employees and Members of Congress entering service after December 31, 2012, who have less than 5 years of creditable service for retirement purposes.

Section 3(b) sets the employee, congressional employee, and Member of Congress contribution to FERS at 4 percent of salary. Employees in special occupational groups with a higher accrual rate, such as law enforcement, will contribute 4.5 percent of their salary. Under existing law, Members of Congress, congressional employees, and special occupational groups contribute 0.5 percent more of their salary to FERS than the vast majority of federal employees.

Section 3(c) calculates pensions using the average of an employee's highest-five years of salary. Current CSRS and FERS employees will continue to have their pensions calculated using the average of their highest-three years of salary.

Section 3(d) sets the FERS pension formula multiplier for employees, congressional employees, and Members of Congress at 0.7 percentage points. Employees in special occupational groups such as law enforcement are subject to a proportional adjustment to the multiplier (0.3 percentage points lower than current law).

Under current law, employee pensions are calculated using a multiplier of 1 percentage point. Pensions for employees retiring at age 62 with more than 20 years of service are calculated using a multiplier of 1.1 percentage points. Pensions for Members of Congress, congressional employees, and special occupational groups such as law enforcement are calculated using a pension multiplier of 1.7 percentage points for the first 20 years of service, and 1 percentage point for service beyond 20 years. Pensions for air traffic controllers are calculated using a pension multiplier of 1.7 percentage points.

#### SEC. 16004. ANNUITY SUPPLEMENT.

This section eliminates the FERS minimum supplement for individuals not subject to mandatory retirement who retire on or after January 1, 2013. Individuals subject to mandatory retirement include law enforcement officers, fire fighters, air traffic controllers, and nuclear materials couriers. Under current law, the FERS minimum supplement is paid to these employees and to Members of Congress and federal employees who retire before the age of 62. The FERS minimum supplement equals the amount the employee would have received from Social Security if he were 62 years old at age of retirement.

#### SEC. 16005. CONTRIBUTIONS TO THRIFT SAVINGS FUND OF PAYMENTS FOR ACCRUED OR ACCUMULATED LEAVE.

This section provides that employees (including postal employees and employees of the Postal Regulatory Commission) and Members may contribute in any pay period any part of any payment that the employee or Member receives as a lump-sum payment for accumulated and accrued annual or vacation leave upon separation or entering active duty.

SEC. 16006. COORDINATION WITH OTHER RETIREMENT SYSTEMS.

This section references the conforming changes required for Foreign Service, CIA, and TVA employees.

**TITLE XVII – NATURAL RESOURCES**

**SUBTITLE A – OIL SHALE LEASING**

SEC. 17001. SHORT TITLE.

The section provides the short title for Subtitle A, the “Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security Act” (PIONEERS Act).

SEC. 17002. EFFECTIVENESS OF OIL SHALE REGULATIONS, AMENDMENTS TO RESOURCE MANAGEMENT PLANS, AND RECORD OF DECISION.

This section deems the final regulations regarding oil shale management published by the Bureau of Land Management (BLM) on November 18, 2008, and the BLM Resource Management Plan Amendments of November 17, 2008, as satisfying all requirements under any law.

SEC. 17003. OIL SHALE LEASING.

This section requires the Secretary of the Interior to hold a 10 parcel research, development and demonstration lease sale within 180 days of enactment. No later than January 1, 2016 the Secretary will hold no less than 5 commercial lease sales for oil shale development.

SEC. 17004. POLICIES REGARDING BUYING, BUILDING AND WORKING FOR AMERICA.

This section provides that to the extent possible, the Secretary will encourage the hiring of American workers and the use of equipment and materials manufactured in the United States.

**SUBTITLE B – OFFSHORE OIL AND GAS LEASING**

SEC. 17101. SHORT TITLE.

This section provides the short title for Subtitle B, the “Energy Security and Transportation Jobs Act.”

***PART 1 – EXPANDING OFFSHORE ENERGY DEVELOPMENT***

**SEC. 17201. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

This section requires the Secretary of the Interior when preparing the five-year oil and gas leasing program to make available those OCS planning areas with the most known resource potential; requires the Secretary to consider requests made by Governors who seek development off their shores; requires the Secretary to open all OCS areas in the 2012-2017 5-Year Plan that are estimated to contain more than 2.5 billion barrels of oil and more than 7.5 TCF of natural gas.

**SEC. 17202. DOMESTIC OIL AND NATURAL GAS PRODUCTION GOAL.**

Requires the Secretary to determine strategic energy production goals when crafting a 5-year plan that best addresses domestic energy demand; sets the production goal for the 2012-2017 5-year plan to increase energy production by 2027 by no less than 3 million barrels of oil per day and no less than 10 billion cubic feet of natural gas per day.

***PART 2 – CONDUCTING PROMPT OFFSHORE LEASE SALES***

**SEC. 17301. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 216 IN THE CENTRAL GULF OF MEXICO.**

This section requires the Secretary to conduct Lease Sale 216 in the Central Gulf not later than 4 months after enactment of the bill.

**SEC. 17302. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 220 ON THE OUTER CONTINENTAL SHELF OFFSHORE VIRGINIA.**

This section requires the Secretary to conduct Lease Sale 220 off the coast of Virginia not later than one year after enactment of the bill while also protecting military operations and readiness. Provides Secretary with flexibility on lease area.

**SEC. 17303. REQUIREMENT TO CONDUCT OIL AND GAS LEASE SALE 222 IN THE CENTRAL GULF OF MEXICO.**

This section requires the Secretary to conduct Lease Sale 222 in the Central Gulf not later than September 1, 2012.

**SEC. 17304. LEASE SALE OFFSHORE CALIFORNIA WITH NO NEW OFFSHORE IMPACT.**

This section requires the Secretary to conduct a lease sale off the coast of Southern California for selected areas with known amounts of hydrocarbons that can be accessed only from existing infrastructure. This sale must be conducted not later than 18 months after enactment of the bill.

SEC. 17305. REQUIREMENT TO CONDUCT OIL AND GAS LEASE SALE 214 IN THE NORTH ALEUTHIAN BASIN OFFSHORE ALASKA.

This section requires the Secretary to conduct lease sale 214 in the North Aleutian Basin not later than one year after enactment of the bill.

SEC. 17306. ADDITIONAL LEASES.

This section provides the Secretary with flexibility to issue further lease sales regardless of their inclusion in the 5-year plan in effect at the time.

SEC. 17307. DEFINITIONS.

This section provides definitions for terms used in the bill.

***PART 3 – LEASING IN NEW OFFSHORE AREAS***

SEC. 17401. LEASING IN THE EASTERN GULF OF MEXICO.

This section is a technical amendment to clarify that the remainder of this title will serve as the new administrative policy on oil and gas leasing in the Eastern Gulf of Mexico.

SEC. 17402. REFORMING OIL AND GAS LEASING IN THE EASTERN GULF OF MEXICO.

This section establishes the administrative boundary line between the Central Gulf and Eastern Gulf planning areas as the current Military Mission line. Provides for gradual, careful and limited energy production in the Eastern Gulf of Mexico by allowing three small lease sales of 50 lease blocks in areas with known quantities of hydrocarbons, subject to significant military protections, while also extending the 2022 opening of the remainder of the Eastern Gulf until 2025.

SEC. 17403. AREAS ADDED TO THE CENTRAL GULF OF MEXICO PLANNING AREA.

This section requires the Secretary to conduct a lease sale for new areas in the Central Gulf Planning Area as a result of the administrative boundary change included in the previous section.

SEC. 17404. APPLICATION OF OUTER CONTINENTAL SHELF LANDS ACT WITH RESPECT TO TERRITORIES OF THE UNITED STATES.

This section applies the Outer Continental Shelf Lands Act to the Territories of the U.S.

***PART 4– OUTER CONTINENTAL SHELF REVENUE SHARING***

SEC. 17501. DISPOSITION OF OUTER CONTINENTAL SHELF REVENUES TO COASTAL STATES.

This section provides coastal states, including US territories, with 37.5% of the revenues from offshore oil and gas development in new areas - phased in by 5-year plan; Central and Western Gulf areas subject to GOMESA revenue sharing prior to this Act remain under the pre-existing revenue sharing plan.

#### ***PART 5 – MISCELLANEOUS PROVISIONS***

##### **SEC. 17601. POLICIES REGARDING BUYING, BUILDING, AND WORKING FOR AMERICA.**

This section provides that to the extent possible, the Secretary will encourage the hiring of American workers and the use of equipment and materials manufactured in the United States.

##### **SEC. 17602. REGULATIONS.**

This section ensures all individuals working on structures such as offshore rigs and offshore wind turbines that are fixed permanently or temporarily to the seabed of the Outer Continental Shelf obtain work visas in accordance with our nation's laws.

#### **SUBTITLE C – ALASKA COASTAL PLAIN OIL AND GAS LEASING**

##### **SEC.17701. SHORT TITLE.**

The section provides the short title for Subtitle C, the “Alaskan Energy for American Jobs Act.”

##### **SEC.17702. DEFINITIONS.**

This section provides definitions for terms used in the bill.

##### **SEC. 17703. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.**

This section requires the Secretary of the Interior to implement a competitive leasing program for oil and gas development of the Coastal Plain and ensure there is no significant adverse effect on wildlife. The section repeals as unnecessary Section 1003 of the Alaska National Interest Lands Conservation Act of 1980, which conditions leasing of the Coastal Plain on an Act of Congress. It also deems the “Final Legislative Environmental Impact Statement” (April 1987) as satisfying the National Environmental Policy Act (NEPA) with respect to prelease activities.

Before conducting the first lease sale, the Secretary shall prepare a new environmental impact statement under NEPA. The Secretary is not required to identify a non-leasing alternative course of action and shall only identify a preferred action for leasing and a single alternative and analyze the environmental effects and potential mitigation measures for the two alternatives.



The Secretary, after consultation with the State of Alaska, the City of Kaktovik, and the North Slope Borough, may designate up to 45,000 acres as a “Special Area” of unique character and interest requiring special management and regulatory protection. The Secretary may exclude any Special Area from leasing, but if it is leased there shall be no surface area occupancy of the lands. The Secretary may lease all or a portion of Special Areas for horizontal drilling from sites outside the areas. The Secretary is directed to prepare regulations to carry out the Act within 15 months after enactment, and may periodically review and revise them to reflect any significant biological, environmental or engineering data.

#### SEC. 17704. LEASE SALES.

This section provides that no later than 180 days after enactment of the Act, the Secretary shall establish procedures for lease sales.

No less than 50,000 acres shall be offered for lease within 22 months after the date of enactment of this Act. These acres should be the tracts that the Secretary believes has the greatest potential for discovery. An additional (no less than) 50,000 acres should be offered for leasing in 6, 12, and 18 month intervals following the initial lease sale. Four additional sales shall be conducted on the same schedule no later than two years after the date of the last sale. All bids received in each sale shall be evaluated by the Secretary within 90 days of the sale.

#### SEC.17705. GRANT OF LEASES BY THE SECRETARY.

This section provides that the Secretary must grant the lease upon payment of a bonus. No lease can be transferred, sold or changed without approval by the Secretary in consultation with the Attorney General.

#### SEC.17706. LEASE TERMS AND CONDITIONS.

This section stipulates that the royalty payment for the leases issued under this Act should not be less than 12 ½ percent.

The Secretary may close on a seasonal basis a portion of the Coastal Plain to exploratory drilling as necessary to protect caribou calving and fish and wildlife. The lessee is responsible for reclamation and may not delegate reclamation responsibility or liability to another entity. This section also requires the negotiation of project labor agreements as a condition of each lease issued under this Act.

#### SEC.17707. POLICIES REGARDING BUYING, BUILDING AND WORKING FOR AMERICA.

This section expresses Congressional intent that the Act will help invigorate American manufacturing, transportation and service sectors. It also states the Congress will monitor the use of personnel and materials to encourage the development of American technology and

manufacturing. This section provides that to the extent possible, the Secretary will encourage the hiring of American workers and the use of equipment and materials manufactured in the United States.

#### SEC.17708. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

This section provides that the Secretary should ensure oil and gas activities result in no significant adverse effect on fish and wildlife and require the application of best commercially available technology. The Secretary will ensure the maximum amount of surface acreage covered by production and support facilities, does not exceed 10,000 acres per 100,000 acres leased.

The Secretary must require a site-specific analysis be made of the probable effects that the drilling activities will have on fish and wildlife and implement a plan to avoid and mitigate adverse effects.

Additionally, the leasing program will require the following:

- (1) Compliance with all applicable provisions of federal and State environmental law and standards at least as effective as the mitigation measures in the Final Legislative environmental impact statement on the Coastal Plain. There will be seasonal limitations on activities to avoid adverse effects on wildlife activities. Exploration activities are limited to between November 1 and May 1 and the use of ice roads are encouraged.
- (2) Safety and construction standards for pipelines and access and service roads that will minimize adverse effects on the passage of migratory species and the flow of surface water.
- (3) Prohibitions on general public access and use on pipeline access and service roads.
- (4) Stringent reclamation and rehabilitation requirements.
- (5) Appropriate prohibitions or restrictions on access by all modes of transportation.
- (6) Appropriate prohibitions on sand and gravel extraction and the use of explosives.
- (7) Consolidation of facility siting, avoidance of springs, streams and river systems and air traffic related disturbance to fish and wildlife.
- (8) Proper treatment and disposal of hazardous and toxic wastes, fuel storage and oil spill contingency planning, research, monitoring and reporting requirements, and field crew environmental briefings.
- (9) Avoidance of significant adverse effects upon subsistence hunting, fishing and trapping.
- (10) Compliance with air and water standards, appropriate seasonal and safety zone designations, protection of cultural and archeological resources.

In preparing and promulgating regulations the Secretary shall consider the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, the environmental protection standards that governed the initial Coastal Plain seismic exploration program, and the land stipulations for exploratory drilling on the KIC-ASRC private lands.

The Secretary should prepare and periodically update a plan to govern, guide and direct the consolidated siting and construction of facilities. Finally, the Secretary shall manage public lands and ensure local residents have access to public lands for traditional uses.

#### SEC. 17709. EXPEDITED JUDICIAL REVIEW.

This section provides a one year deadline for any complaint seeking judicial review of the Act, and a 90-day deadline to challenge any action of the Secretary under the Act. Any complaint must be filed in the U.S. Court of Appeals of the District of Columbia. This section also provides for a limitation on attorney's fees.

#### SEC.17710. TREATMENT OF REVENUES.

This section provides that 50 percent of bonus, rental, and royalty revenues generated by this Act go to the U.S. Treasury.

#### SEC.17711. RIGHTS OF WAY ACROSS THE COASTAL PLAIN.

This section provides that the Secretary shall issue rights of way across the Coastal Plain for transportation of oil and gas, and ensure they do not result in adverse effects to fish and wildlife.

#### SEC.17712. CONVEYANCE.

To maximize federal revenues by removing clouds on title to lands and to clarify land ownership patterns in the Coastal Plain, this section provides that the Secretary will convey certain surface estates to the Kaktovik Inupiat Corporation and the remaining subsurface estate granted in an 1983 agreement with the Arctic Slope Regional Corporation.